

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 943 of 2016

Yogesh Manhar S/o Shri Hira Dhan Manhar Aged About 42 Years
R/o Rahoud, Police Station & Tahsil Pamgarh, District Janjgir
Champa, Chhattisgarh.

---- Applicant

Versus

1. Smt. Kusum Manhar W/o Yogesh Manhar Aged About 40 Years
2. Ku. Khusbu D/o Yogesh Manhar, Aged About 6 Years (Minor)
Represented Through Her Mother i.e. Smt. Kusum Manhar, W/o
Yogesh Manhar,

Both respondents are R/o Rahoud Pamgarh, Police Station &
Tahsil Pamgarh, District Janjgir Champa, Chhattisgarh.

---- Respondents

For applicant - Shri Jitendra Gupta, Advocate.

For respondents-Smt. Nausina Afrin Ali, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

6/07/2017

1. This instant petition is against the order dated 16/08/2016 whereby the amount awarded to wife of Rs.1500/- has been enhanced to Rs.2500/-. Petitioner had stated that he do not challenge enhancement made for the children from Rs.800/- to Rs.1500/-, however the challenge is confined to the enhancement made with respect to the wife.

2. Learned counsel for the petitioner would submit that initially by an order dated 4/05/2013 in a proceeding under section 125 of Cr.P.C. order was passed to pay amount of Rs.2300/- to the wife and children. Subsequently, immediately within short period of time after two years in the month of August 2015 an application for enhancement was filed and though statement of wife was recorded on 4/02/2016, she suppressed the fact that she was working in aangan badi and she

received amount of Rs.2000/- per month, therefore by suppression of fact order has been obtained. Consequently, enhancement so made may be set aside.

3. Learned counsel for the non-applicant/wife would submit that applicant is running his shop in a complex and is also running auto parts shop. During the course of proceeding she placed for perusal a photograph of the shop and would submit that applicant is running his shop and without any rhyme or reason do not want to pay the enhanced amount to the wife forgetting the fact that price have been increased from 2013 till 2017, therefore enhanced amount of Rs.1000/- which is passed do not need any interference.

4. Perused the order dated 16/08/2016 and the original record. The order would show that initially by an order dated 4/05/2013 in a proceeding under Section 125 of Cr.P.C. an amount of Rs.1500/- was directed to be paid to the wife and Rs.800/- to the children in this case. Enhancement to the wife has been made from Rs.1500/- to Rs.2500/-. In statement of the wife she stated that the husband is running a computer shop and grinding shop and is earning Rs.30,000/- per month. It is further stated that she is ailing and in order to treat her she is completely indebted. Said statement is supported by another Smt. Sheela Kaushal AW-2. She also stated that non-applicant is running a computer centre, auto parts shop and grinding machine shop, apart from that he holds 4 to 5 acres of agricultural land. In statement of one Manjeet Singh Kaushal AW-3 in the cross examination a suggestion was made by applicant/husband that computer centre is being run by his sister, therefore existence of computer shop run by family members comes to fore and in the cross-examination of husband Yogesh he has

stated that his sister does not runs a computer shop and grinding shop whereas sister NAW-3 Yogita stated that computer shop is being run by her, therefore there is major contradiction about existence of ownership of shop comes and the presumption leans in favour of the non-applicant/wife for running of the shop by the applicant/husband. Taking into such statement enhancement from Rs.1500/- to Rs.2500/- from 2013 cannot be stated to be exorbitant or inflated considering the price index which is prevailing in the society and the increase in price of the commodities.

5. Consequently, petition has no merit and is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE