

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.814 of 2017

Jeevan Lal Burman, son of late Sukhiram Burman, aged about 42 years, Caste Satnami, occupation Headmaster, Government Boys Pre-Middle School, Dalhapodi, Dalha, Resident of Village Barbaspur, Karranala, Tahsil and District Korba, Chhattisgarh, postal address Office of Govt. Boys Pre-Middle School, Dalhapodi, Block Akaltara, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

1. Pritima Burman, wife of Jeevan Lal Burman, aged about 34 years, Caste Satnami, resident of village Katghora, Kasaniya, District Korba, Chhattisgarh, at present resident of Ramnagar, Baloda Ward No.12, District Janjgir-Champa, Chhattisgarh at present address CIMS Campus, Bilaspur, Chhattisgarh
2. Ku. Pratiksha, aged about 14 years, daughter of Jeevan Lal Burman, minor, represented through mother, resident of Village Katghora, Kasaniya, District Korba, Chhattisgarh, at present resident of Ramnagar, Baloda Ward No.12, District Janjgir-Champa, Chhattisgarh at present address CIMS Campus, Bilaspur, Chhattisgarh

--- Respondents

For Applicant	:	Shri Manoj Kumar Jaiswal, Advocate
For Respondents	:	Shri Goutam Khetrpal, Advocate

and

Criminal Revision No.155 of 2018

Jivan Lal Barman, s/o Late Sukhiram Barman, aged about 40 years, resident of Baloda, Police Station and Tahsil Baloda, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

1. Smt. Pritima Barman, W/o Jivan Lal Barman, aged about 32 years,
2. Ku. Pratiksha, minor, represented through her mother i.e. Smt. Pritima Barman, W/o Jivan Lal Barman, aged about 12 years,

Both Respondents No.1 and 2 are resident of Baloda, Police Station and Tahsil Baloda, District Janjgir-Champa, Chhattisgarh

--- Respondents

For Applicant	:	Shri Jitendra Gupta, Advocate
For Respondents	:	Shri Sharad Mishra, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

6.9.2018

1. With the consent of Learned Counsel appearing for the parties, the revisions are heard finally.
2. Since the issue involved in both the revisions is common, they are disposed of together by this common order.
3. Vide order dated 9.9.2013 passed in M.J.C. No.57 of 2012, under Section 125 of the Cr.P.C., monthly maintenance of total Rs.4,500/- was granted in favour of the Respondents, who are wife and daughter of the Applicant in both the revisions. Thereafter, an application under Section 127 of the Cr.P.C. was submitted by the Respondents/wife and daughter for enhancement of the maintenance. The application was allowed by the Family Court vide order dated 1.8.2017 passed in M.Cr.C. No.275 of 2017 and monthly maintenance was enhanced from Rs.4,500/- to Rs.18,000/-. A separate application under Section 127 of the Cr.P.C. was filed by the Applicant for setting aside the order dated 9.9.2013 granting monthly maintenance of total Rs.4,500/- in favour of the Respondents on the ground that the Respondents are forcibly residing in his house and the Respondent/wife has performed second marriage. She is working as Aaya in CIMS (Chhattisgarh Institute of Medical Sciences), Bilaspur and getting monthly salary of Rs.2,000/-. Vide order dated 9.1.2018 passed in M.J.C. No.46 of 2014, the said application of the Applicant has been rejected.
4. I have heard Learned Counsel appearing for the parties in both the

revisions and perused the record with due care.

5. From the evidence adduced by the parties, it is clear that though the Applicant and his witnesses have deposed that the Respondent/wife has performed second marriage with one Mithailal, the Applicant has not led any evidence regarding the date, place and the manner of performance of the said second marriage of the Respondent/wife. He has also not led any evidence regarding living of the Respondent/wife and Mithailal together as husband and wife. With regard to earning of the Respondent/wife, from the record, it reveals that though she is working as *Aaya* in CIMS, Bilaspur, there is no evidence on record to show what remuneration is she getting from her job in the CIMS. As pleaded by the Applicant, she is getting Rs.2,000/- per month from the CIMS. In these circumstances, the Family Court has rightly rejected the application submitted by the Applicant under Section 127 of the Cr.P.C.
6. With regard to further enhancement of the maintenance in favour of the Respondents, admittedly in the year 2013, the Applicant was getting monthly salary of Rs.32,000/- and in the year 2017 he was getting monthly salary of Rs.55,000/-. Presently, he is residing with his one son and his dependent mother. The Respondent/wife is still working in the CIMS, Bilaspur and is getting salary from there. Considering the entire facts and circumstances of the case, monthly income of the Applicant and his other responsibilities, the enhancement in the monthly maintenance in favour of the Respondents from Rs.4,500/- to Rs.18,000/- appears to be on higher side.

7. Looking to the 80% increase in the salary of the Applicant from the year 2013 to 2017, the monthly maintenance of the Respondent/wife is enhanced from Rs.3,000/- to 6,000/- and that of the Respondent/daughter is enhanced from Rs.1,500/- to Rs.5,000/-, total Rs.11,000/- payable to them with effect from 1.8.2017, i.e., the date of the order passed by the Family Court.
8. Resultantly, both the revisions are disposed of in the aforesaid terms.
9. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE