

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1131 of 2017****Order Reserved on 10/08/2018****Order delivered on 25/10/2018**

Sunil Gauraha S/o Shri Ishwar Prasad Gauraha, aged about 50 years, Resident of Street No.2, Near R.K. Boot House and Nandu Garage, Telipara, Bilaspur (C.G.).

--- Applicant**Versus**

Samraddhi Gauraha D/o Sunil Gauraha, aged about 17 years, through her natural guardian Smt. Aditi Gauraha, Resident of Street No.2, Near R.K. Boot ouse and Nandu Garage, Telipara, Bilaspur (C.G.).

---- Respondent**AND****Criminal Revision No. 636 of 2018**

Ku. Samriddhi Gauraha D/o Sunil Gauraha, aged about 17 years, through her natural guardian Smt. Aditi Gauraha, R/o Street No.2 Near R.K. Boot House and Nandu garage, Telipara, Bilaspur (C.G.).

--- Applicant**Versus**

Sunil Gauraha S/o Shri Ishwar Prasad Gauraha, aged about 50 years R/o Street No. 2, Near R.K. Boot House and Nandu Garage, Telipara, Bilaspur (C.G.).

---- Respondent

For Applicant (In CRR No. 1131/2018)	:	Mr. Manish Nigam, Advocate
For Applicant (In CRR No. 636/2018)	:	Mr. Sanjay Agrawal, Advocate
For Respondent (In CRR No. 1131/2018)	:	Mr. Sanjay Agrawal, Advocate
For Respondent (In CRR No. 636/2018)	:	Mr. Manish Nigam, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

CAV Order

1. Since both the revisions arise out of same order, therefore, they are being disposed of by this common order.
2. Vide impugned order dated 04/10/2017, the learned Principal Judge, Family Court, Bilaspur in Misc. Criminal Case No. 210/2017 allowed the application of applicant- Samraddhi Gauraha (in Criminal Revision No. 1131/2017) and ordered to Sunil Gauraha (applicant in Criminal Revision No. 636/2018), father of the Samraddhi to pay monthly maintenance of Rs. 25,000/- to Samraddhi.
3. Samraddhi Gauraha had filed an application under Section 125 of the Cr.P.C wherein, it was pleaded that she is minor unmarried daughter of Sunil Gauraha. She was borne from the wedlock of Smt. Admiti Gauraha (mother of Samraddhi) and Sunil Gauraha on 07/07/2000. Her father is working as Sport Officer in the Central University, Bilaspur posted at Kanker and withdraw a sum of Rs. 1,37,556/- per month. He is also having a flat and house at Bilaspur and agricultural land also from which he earns Rs. 2,00,000/- per annum. It was further pleaded that without sufficient cause, Sunil Gauraha refused to maintain his wife and her. He also refused to born the educational expenses of Samraddhi Gauraha. He even stopped talking with daughter and mother i.e. wife of Sunil Gauraha. Both Samraddhi and her mother Smt. Aditi residing with grand father of Samraddhi in the same premises on the first floor. Samraddhi is a school girl and pursuing her studies at Brilliant Public School and for which yearly fees is about 75000/- per annum and substantial expenses is also required for purchase of books, copies, school fees, school bus fee, tuition fee and

coaching classes etc. and as such minimum Rs. 30,000/- per month is required for maintenance of Samraddhi.

4. Sunil Gauraha filed his reply wherein he refused each and every allegation leveled against him and stated that Samraddhi and her mother are residing with him under the same roof and he is maintaining them by providing food, clothes, shelter and education and is fulfilling their basic needs. It was also pleaded by him that her daughter under the influence of her mother is not behaving good with him. Since he himself is maintaining Samraddhi through his family, therefore, she is not entitled to get any maintenance from him.
5. On behalf of Samraddhi, her mother- Smt. Aditi Gauraha was examined as Applicant Witness No. 1. However, Sunil Gauraha examined himself as Non-Applicant Witness No.1. After taking the evidence, the Family Court vide order dated 04/10/2017 allowed the application submitted by Samraddhi and granted monthly maintenance of Rs. 25,000/- in her favour.
6. Criminal Revision No. 636/2018 has been filed by the Samraddhi Gauraha for further enhancement of maintenance amount.
7. Criminal Revision No. 1131/2017 has been filed by the Sunil Gauraha on the ground that inspite of the fact that Samraddhi along with her mother is residing together with him under the same roof and he is maintaining them by providing food, clothes, shelter and education and is fulfilling their basic needs, therefore, Samraddhi is not entitled to get any separate maintenance from him. This revision has been further preferred on the ground that the maintenance granted by the Court below is exorbitant and has been awarded without application of mind, therefore, the same

deserves to be set-aside. Learned trial Court has failed to appreciate the fact that Sunil Gauraha is living in a joint family and being the elder member of the family, he has duty and responsibilities towards his parents and other members of the family.

8. I have heard counsel for both the parties and perused the entire record of the Court below.
9. There is no dispute on the point that Samraddhi is legitimate child of Sunil Gauraha and was studying in class-11 at the relevant time. There is also no dispute on the point that Sunil Gauraha is a govt. servant and posted at Kanker as Sport Officer.
10. Smt. Aditi mother of Samraddhi Gauraha has categorically stated in para 3 of her cross-examination that she along with total 13 members are residing in a house which is owned by her father-in-law. She further stated that she is residing with her daughter on first floor and remaining members are residing on ground floor. She further stated that kitchens are also separate. In para 10 of her cross-examination, she further stated that since Sunil Gauraha is not residing with them and her father-in-law had taken the responsibility of them, therefore, she is residing with her daughter in that house.
11. In the affidavit under Section 18 Rule 4 CPC, Sunil Gauraha, father of Samraddhi Gauraha has stated that he is maintaining his wife and daughter with cooperation of his family members. In para 12, he further stated that he is paying the school fee of his daughter through his family members. In para 17 of his cross-examination, he admitted the fact that his wife, daughter and his father is residing on first floor since last 15 years.

He further admitted the fact that the kitchens are separate since last one year and separate meals are being cooked since then.

12. During cross-examination when the Family Court questioned him that whether he is paying any amount to his wife for maintaining his daughter or not, he replied to that his daughter and wife are residing with his father in a joint family and the expenses of house is being afforded by his father and brother. He did not make any specific answer regarding any fix amount for maintaining her daughter. He further did not state anything that how much amount he gives for household expenses. He also admitted the fact that his father is retired from the post of GM from Telecom Department and as stated by Aditi Gauraha, wife of Sunil Gauraha, he is getting monthly pension of Rs. 45,000/-.
13. Samraddhi is residing with her mother along with her grand father at first floor, thus, it is clear that their maintenance is being done by the grand-father of Samraddhi. In his affidavit (Ex.P-3), Ishwar Prashad Gauraha, father of Sunil Gauraha has also deposed that he is maintaining Samraddhi. From the above, it is clear that Samraddhi is legitimate unmarried daughter of Sunil Gauraha and presently she is residing with her mother, but separately from Sunil Gauraha at first floor of the house of her grand-father. It is also clear from the evidence adduced by the parties that Sunil Gauraha is not maintaining Samraddhi Gauraha, thus, the finding of the Family Court in this regard is in accordance with law.
14. With regard to the quantum of maintenance amount, the family Court granted Rs. 25,000/- monthly maintenance in favour of Samraddhi. There is no dispute on the point that at the relevant time, Samraddhi was studying

in class-11 at Brilliant Public School and at that time her father Sunil Gauraha was posted at Kanker as Sport Officer. As per salary slip Ex.P-1 of the month of November, 2015 of Sunil Gauraha, the net pay was Rs. 111104/-. Looking to the above salary of Sunil Gauraha, Rs. 25,000/- monthly maintenance granted by the Family Court in my considered view is just and proper and no further enhancement is required.

15. In the result, both the revisions have no merits. They are, accordingly, dismissed.

Sd/-
(Arvind Singh Chandel)
Judge