

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.347 of 2014

Smt. Champa Dewangan, W/o Sohan Lal Dewangan, aged about 45 years,
R/o Vardhman Nagar, Ward No.17, Rajnandgaon, Civil and Revenue District
Rajnandgaon, Chhattisgarh

---- Applicant

versus

Sohan Lal Dewangan, S/o Banju Dewangan, aged about 49 years, working
as headmaster, Govt. School Girgaon, Tahsil Dongargaon, District
Rajnandgaon, R/o Rawanbhata, College Road, Dongargaon, District
Rajnandgaon, Chhattisgarh

--- Respondent

For Applicant	:	Shri F.S.Khare, Advocate
For Respondent	:	None, though notice has been served

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

21.2.2018

1. This revision has been preferred by the wife/Applicant against the order dated 28.3.2014 passed by the Judge, Family Court, Rajnandgaon in Miscellaneous Criminal Case No.258 of 2012 by which the application submitted by the Applicant under Section 127 of the Code of Criminal Procedure has been partly allowed and the amount of monthly maintenance has been enhanced from Rs.5,000/- to Rs.7,000/-. The Applicant has filed the instant revision for further enhancement of the amount of maintenance awarded by the Family Court.
2. Earlier, vide order dated 20.10.2009 passed in Miscellaneous Criminal Case No.77 of 2009, a sum of Rs.5,000/- was awarded as monthly maintenance in favour of the Applicant. The Applicant filed an application under Section 127 of the Code of Criminal Procedure for enhancement of the amount of maintenance from Rs.5,000/- to Rs.17,000/- on the ground that she has turned to old age and is facing health problems and she is unable to maintain

herself. In the amount of Rs.5,000/- granted her earlier, she lives in a rented accommodation for which she is required to pay monthly rent of Rs.2,500/-. The Respondent/husband is an Upper Division Teacher and he gets salary of Rs.38,000/- per month. He also owns an agricultural land measuring area 5 acres from which he earns Rupees Two Lakhs per year. The Respondent has two daughters which have been married. He has also one son which is major and is employed. The Respondent has filed reply to the application under Section 127 of the Code of Criminal Procedure. He has admitted in his reply that he gets monthly salary of Rs.38,000/-. He has further stated that his son is still pursuing his studies and is not employed and he is still dependent upon him. The Respondent has further stated that he had obtained a loan against which he is making repayment of Rs.4,000/- per month. He deposits premium of life insurance amounting to Rs.1,125/- per month. He has also to perform marriage of his son which will cost him an expenditure.

3. After recording evidence, vide the impugned order dated 28.3.2014, the Family Court enhanced the amount of monthly maintenance from Rs.5,000/- to Rs.7,000/- on the ground that the son is dependent upon the Respondent/husband and monthly income of the Respondent is proved to be Rs.33,000/-. Hence, this revision by the Applicant/wife for enhancement.
4. Learned Counsel appearing for the Applicant/wife submits that the Respondent/husband has not denied the salary and the income from the agricultural land. Therefore, the Family Court ought to have awarded maintenance of Rs.17,000/- per month to the Applicant/wife.

5. I have heard the submission put-forth and perused the material available with due care.
6. It is admitted fact that the Respondent/husband gets monthly salary of Rs.33,000/- and out of which he is already paying maintenance of Rs.5,000/- per month to the Applicant/wife. Thus, the only monthly sum of Rs.28,000/- remains with the Respondent/husband. Though he has to make payment of premium of life insurance and his son is also dependent upon him yet the enhancement of maintenance made by the Family Court is not sufficient.
7. Considering the income of the Respondent/husband and the facts that the Respondent has a son dependent upon him and he has also to make payment of premium of life insurance, further enhancement of Rs.1,000/- per month in the maintenance would be just and proper.
8. Consequently, the revision is allowed in part. The amount of monthly maintenance is enhanced by Rs.1,000/-. Now, the Applicant shall be entitled to get total maintenance of Rs.8,000/- per month from the Respondent. The enhancement of Rs.1,000/- shall be effective from today.

Sd/-
(Arvind Singh Chandel)
Judge