

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.806 of 2017

Ramkhilawan Chandrakar, aged about 61 years, son of late Ludhuram Chandrakar, R/o Village Bhilai (Jayram Nagar), Tahsil Masturi, District Bilaspur, Chhattisgarh

---- Applicant

versus

Smt. Kalindri Bai, aged about 59 years, wife of Ramkhilawan, Caste Chandrakar, R/o Village Gataura, Tahsil Masturi, District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Ms. Minu Banerjee, Advocate
For Respondent	:	Ms. Nirupama Bajpai, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

23.3.2018

1. This revision is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, the matter is heard and decided finally.
2. The revision has been preferred against the order dated 20.7.2017 passed by the Family Court, Bilaspur in Case No.52 of 2016, whereby the application under Section 127 of the Code of Criminal Procedure preferred by the Applicant/husband has been rejected.
3. Facts, in brief, are that vide order dated 3.3.2005 passed under Section 125 of the Code of Criminal Procedure in M.J.C. No.57 of 2004, a sum of Rs.150/- per month was awarded as maintenance in favour of the Respondent/wife. Thereafter, the Respondent/wife filed an application under Section 127 of the Code of Criminal Procedure for enhancement, which was registered as M.J.C. No.182 of 2009 in which vide order dated 26.11.2009, the maintenance was enhanced to Rs.700/- per month. The

maintenance was further enhanced from Rs.700/- to Rs.900/- per month vide order dated 24.2.2011 passed in M.J.C. No.111 of 2011. Thereafter, the Applicant/husband preferred the application under Section 127 of the Code of Criminal Procedure on the ground that he is aged about 61 years. He is unable to do any work and is unable to make earning. He has no means of earning. Therefore, he is unable to make payment of maintenance to the Respondent. They have one married daughter. The daughter is capable to maintain her mother/Respondent. The application of the Applicant/husband was rejected by the Family Court vide the impugned order dated 20.7.2017. Hence, this revision.

4. Learned Counsel appearing for the Applicant/husband submits that the Family Court has failed to appreciate that the Applicant is an old person and he has no source of income and, therefore, he is not able to pay the maintenance. He is dependent upon his second wife and at present he has no source of income,
5. Learned Counsel appearing for the Respondent/wife supports the impugned order and submits that the Family Court has rightly rejected the application of the Applicant/husband.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. The Applicant/husband himself has admitted during his statement that he has $\frac{1}{2}$ acre agricultural land in which he does farming. From his statement, it is clear that he has means to maintain the Respondent. Furthermore, he is aged about 61 years only. There is no document on record to show that he is physically or mentally

unable to do any work or make earning.

8. From the above discussion, I find that the Family Court has rightly rejected the application preferred by the Applicant/husband. I find no merit in this revision.
9. Resultantly, the revision is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge