

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1064 of 2017**

1. Smt. Neetu Singh W/o Shri Baldau Singh Thakur, aged about 36 years.
 2. Uvaraj Singh Thakur S/o Shri Baldau Singh Thakur, aged about - 12 years, Minor - Through His Mother - Smt. Neetu Singh (Petitioner No. 1) W/o Shri Baldau Singh Thakur, aged about 36 years,
- Both R/o I.T.I. Colony Koni, Police Station - Koni, District Bilaspur (C.G.)

----Petitioners**Versus**

- Baldau Singh Thakur S/o Shri Dhruv Singh Thakur, aged about 49 years, R/o village - Chamari, Police Station - Mungeli, District - Mungeli (C.G.)
- Present address : Teacher Middle School Manpur, District - Mungeli (C.G.)

---- Respondents

For Petitioners	:	Shri Rishi Rahul Soni, Advocate.
For Respondent	:	None for respondent, though served.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****04/07/2019**

01. The applicant wife has filed this revision under Section 19 (4) of the Family Courts Act read with Section 397/401 of the code of Criminal Procedure for enhancement of maintenance being aggrieved by the order dated 27.09.2017 passed by the Additional Principal Judge, Family Court, Bilaspur, in M.J.C. No.279/2017 granting maintenance of

Rs.10,000/- (Rs.6,000/- to applicant No.1 and Rs.4,000/- to applicant No.2).

02. Brief facts of the case are that on 30.05.2009, the learned trial Court allowed the application of applicants filed under Section 125 of Cr.P.C. directing the respondent husband to pay Rs.2,800/- (Rs.1,800/- to petitioner No.1 and Rs.1,000/- to petitioner No.2) per month as maintenance. After some period, applicants filed an application under Section 127 Cr.P.C., which was decided on the basis of compromise and order dated 09.08.2010 was passed by the learned Family Court, Bilaspur, and amount of maintenance was enhanced from Rs.2,800/- to Rs.3,800/- (Rs.2,500/- to petitioner No.1 and Rs.1,300/- to petitioner No.2). Again on 18.04.2012, application filed by the petitioners under Section 127 Cr.P.C. was allowed and amount of maintenance was enhanced from Rs.3,800/- to Rs.4,500/- (Rs.2,800/- to petitioner No.1 and Rs.1,700/- to petitioner No.2.). Again on 18.09.2013, the applicants moved an application under Section 127 Cr.P.C. for enhancement of maintenance, which was also allowed and amount of maintenance was enhanced from Rs.4,500/- to Rs.10,000/- (Rs. 6,000/- to petitioner No.1 and Rs.4,000/- to petitioner No.2.). Lastly, on 13.12.2016, again applicants moved an application under Section 127 of Cr.P.C. for enhancement of maintenance from Rs.10,000/- to Rs.17,000/- on the grounds mentioned therein, which was partly allowed vide order dated 27.09.2017 enhancing the maintenance

amount from Rs.10,000/- to Rs.11,000/-. Hence, this revision.

03. Learned counsel for the applicants submits that the impugned order dated 27.09.2017 is illegal and bad in eye of law. The learned Court below partly dismissed the petitioner's application without considering the materials available on record. He further submits that the respondent is govt. employee, his net salary is Rs.38,582/- per month and looking to the increase in price index day-by-day, the maintenance amount may be enhanced from Rs.10,000/- to Rs.17,000/- (Rs. 10,000/- to petitioner No.1 and Rs.7,000/- to petitioner No.2.).

04. Heard learned counsel for the applicants and perused the material on record.

05. Before the trial Court, the applicants filed salary certificate of respondent for the month of July, 2014, according to which, his gross salary was Rs.30,420/- and net salary was Rs.28,324/-. The respondent is a Govt. servant and his salary, in the year 2017, might have been increased. The learned trial Court, in para 10 of impugned order, has observed that the applicants did not produce present salary certificate of respondent and enhance maintenance from Rs.10,000/- to Rs.11,000/- stating that respondent has other obligations also. The learned trial Court drawn adverse inference against respondent and did not enhance suitable amount. It is pertinent to mention here that from the year 2016, except share market, there is inflation in every commodity, and in the year 2017 also, the respondent's salary

might have been more than 28,000/- per month. Thus, looking to the inflation, the amount so enhanced by the learned trial Court does not appear to be sufficient and requires consideration by this Court.

06. The revision is allowed. The impugned order dated 27.09.2017 is modified to the extent that the respondent shall pay Rs.17,000/- (Rs.10,000/- to petitioner No.1 and Rs.7,000/- to petitioner No.2) per month as maintenance.

07. Revision thus allowed.

Sd/-

(Rajani Dubey)
JUDGE