

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1181 of 2016**

Sevati Bai W/o Jaleshwar Verma, aged about 28 years R/o Bodhaikunda, at present village Sukhatal, P.S. Kawardha, Tahsil Kawardha, District Kabirdham, Tahsil Kawardha, Distt. Kabirdham (C.G.)

--- Applicant

Versus

Jaleshwar S/o Gambhir Verma, aged about 30 years R/o Bodhaikunda, P.S. Bodala, Tahsil Bodala, District Kabirdham (C.G.)

---- Respondent

For Applicant	:	Mr. G.R. Miri, Advocate
For Respondent	:	Mr. Samir Singh, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

16/01/2019

1. This revision has been preferred by the Applicant/Wife against order dated 08/07/2016 passed in Miscellaneous Criminal Case No. 268/2016 by the Family Court, Kabirdham, District Kabirdham, whereby the Family Court has allowed the application under Section 127 of the Code of Criminal Procedure submitted by the Applicant and enhanced monthly maintenance amount from Rs. 3000/- to Rs. 3300/-.
2. Initially vide order dated 28/02/2014 passed in Miscellaneous Criminal Case No. 356/2013, the learned Family Court, Kabirdham allowed the application submitted under Section 125 of the Code of Criminal Procedure and granted monthly maintenance of Rs. 2500/- in favour of the Applicant. Against the said order, a revision was preferred by the Applicant/Wife before the High Court which was allowed vide order dated 17/09/2015 in Criminal Revision No. 507/2015 and the monthly maintenance amount was enhanced to Rs. 3000/-. Thereafter, on

10/05/2016, the Applicant/Wife filed an application under Section 127 of the Code of Criminal Procedure for enhancement of maintenance amount on the ground that looking to the present price index, the enhancement amount is on lower side. The Applicant/Wife submitted that she always get sick and is unable to maintain herself in the maintenance amount of Rs. 3000/-. However, the Respondent/Husband is having 11 Acres of agricultural land. He is also having tractor and crusher machine.

3. In his reply, the Respondent pleaded that he is having 4.91 Acres of agricultural land. His second wife, two sons, sister, two children of his sister and mother are dependent on him.
4. The Applicant examined herself as Applicant Witness No.1 and one Raghuwar as Applicant Witness No.2. The Respondent examined himself as Non-Applicant Witness No.1 before the Family Court.
5. After recording the statements of the parties and hearing them, the Family Court vide order dated 08/07/2016 enhanced the monthly maintenance amount of Rs. 3000/- to Rs. 3300/-.
6. I have heard counsel for the parties and perused the record.
7. The Applicant in her statement stated that the Respondent has owned 14-15 Acres of agricultural land wherein sugarcane crops are being irrigated. He is also having a tractor. Her witness Raghuwar also supported the above statement of the Applicant, but there is no documentary evidence regrading agricultural land of the Respondent. In his Court statement, the Respondent admitted the fact that there is

11.5 acres land on the joint name of his brother and him. He also admitted that there is land ad-measuring 0.838 hectare on the name of his mother and she is residing with him. There is also a land ad-measuring 4.565 hectare on the joint name of his brother and him at Village Bodhaikunda. He also admitted the fact that he is having a tractor and he irrigates sugarcane crop in the said land. From the above, it is clear that the Respondent has sufficient means to maintain his wife.

8. The Applicant in her Court statement in para 4 of cross-examination admitted the fact that the Respondent is residing with his second wife, two sons, his sister, two children of his sister and his mother. Thus, it is clear that total 7 persons are dependent on the Respondent. Initially, Rs. 2500/- as monthly maintenance was granted by the Family Court which was enhanced by the High Court vide order dated 17/09/2015 to Rs. 3000/-. Thereafter, vide impugned order dated 08/07/2016, only Rs. 300/- has been enhanced. Taking into consideration the present price index, need of deserted woman for food, clothing, medical needs etc., monthly maintenance of Rs. 3300/- is on lower side and in my view the same should be enhanced. Therefore, It is ordered that the Respondent shall now pay Rs. 4000/- as monthly maintenance to the Applicant from today.
9. Accordingly, this revision is allowed.

Sd/-

(Arvind Singh Chandel)
Judge