

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 77 of 2019

- Smt. Sarita Bharti W/o Suresh Kumar Bharti Aged About 29 Years R/o Village Birra, Tahsil Champa District Janjgir Champa Chhattisgarh.

---- Applicant

Versus

- Suresh Kumar Bharti @ Suresh Kumar S/o Late Kirtan Ram Aged About 31 Years R/o Village Jorapali, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara Chhattisgarh Present Address Coalboat Colony, Kandra, Q. No. 23, Near Water Tank, P. S. Sindi (Gaushala) District Dhanband Jharkhand

---- Respondent

 For Applicant : Shri Ravindra Sharma, Advocate
 For Respondent : Shri Raghvendra Pradhan, Advocate

Hon'ble Smt. Justice Rajani Dubey
Order On Board

13.8.2019

1. Heard on admission.
2. This revision is preferred against the order dated 30.11.2018, passed by the Judge, Family Court, Janjgir, District Janjgir Champa (CG) in MJC No.181/2018, wherein the Family Court has allowed the application filed by the applicant/ wife under Section 127 Cr.P.C. and enhanced the maintenance amount from Rs.3,000/- to Rs.5,000/- per month.
3. The relevant facts for the adjudication of the present Cr. Revision are that the applicant admittedly is the wife of the respondent. The applicant/wife filed an application under Section 127 Cr.P.C. before the Family Court on the ground that she was granted maintenance of Rs.3,000/- per month vide order dated 28.7.2015 passed in Misc. Cr. Case No. 84/2015.

The respondent is working in B.C.C.L. Company, District Dhanbad(Jharkhand) and his gross salary is Rs.51,890/- and after deduction he is getting Rs.36,225/- per month. Rs.3,000/- is not sufficient for her livelihood, therefore, the maintenance amount may be enhanced from Rs.3,000/- to Rs.20,000/- per month.

4. The respondent did not appear before the Family Court and file reply, therefore, the order has been passed ex-parte.
5. The learned Family Court after considering the oral and documentary evidence produced by the applicant, enhanced the maintenance from Rs.3,000/- to Rs.5,000/-. Hence, this revision has been filed by the applicant for suitable enhancement of the amount of maintenance.
6. Learned counsel for the applicant/wife submits that the order passed by the learned Family Court is illegal, improper and not sustainable in the eyes of law. The Family Court has erred in ignoring that the respondent was ex-parte before the Family Court and the averment regarding income of the respondent is not rebutted. The respondent is working in B.C.C.L. Company, District Dhanbad and his gross salary is Rs.51,890/- per month, therefore, the amount of Rs.5,000/- is very less and looking to the price index and salary of the respondent, it may be enhanced suitably.
7. On the other hand learned counsel for the respondent/husband supported the impugned order and submits that the order

passed by the Family Court is just and proper and requires no interference.

8. I have heard learned counsel for the parties and perused the impugned order and the material available on record.
9. Even though before the Family Court the respondent/husband could not submit his salary slip, the same has been filed before this court, in which it is found that after making all deductions, he is getting around Rs.29,762/- per month. The Family Court did not consider this aspect of the matter that the respondent is serving in B.C.C.L. Company and getting Rs.51,890/- per month. To support her contention, the applicant has filed salary slip of the respondent vide Ex.P/2. The applicant has no source of income and Rs.5,000/- per month is insufficient to meet the day to day requirements. There is no dispute that the applicant and respondent are legally married wife and husband, and as such it is the duty of the husband to take care of his spouse by paying the optimum amount of maintenance so that she is not required to live a helpless hellish life. At the same time, the husband's source of income should also be considered while awarding the maintenance and no random approach in doing so should be adopted. As per guidelines of Hon'ble the Apex Court, 25% of husband's net salary just and proper to be awarded as maintenance to wife. Therefore, looking to the salary of the respondent, the amount of maintenance granted to the wife/applicant requires to be enhanced properly. Accordingly, the revision is partly allowed

and amount of maintenance awarded to the applicant/wife is enhanced from Rs.5,000/- to Rs.9,000/- per month. It is ordered that the respondent/husband now shall pay to the applicant/wife Rs.9,000/- per month as maintenance from the date of passing of this order.

- 10.** The revision stands disposed of at the admission stage.

Sd/

(Rajani Dubey)
JUDGE

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