

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 116 of 2019

1. Smt. Ghasen Bai W/o Shri Thakur Prasad Aged About 43 Years
2. Ku. Shrimati D/o Shree Thakur Prasad Aged About 16 Years Through Her Mother Smt. Ghasen Bai
3. Ku. Sonmati D/o Shree Thakur Prasad Aged About 13 Years Through Her Mother Smt. Ghasen Bai,

All the above mentioned applicants R/o Puhputara, Police Station And Tehsil Lakhanpur, District Surguja Chhattisgarh

---- Applicants

Versus

- Shri Thakur Prasad S/o Dular Gond Aged About 50 Years R/o Mutaki, Police Station And Tehsil Udaypur, District Surguja Chhattisgarh, District

---- Respondent

 For Applicants : Shri Sushil Dubey, Advocate
 For Respondent : Ms. Soniya Kuldeep, Advocate

Hon'ble Smt. Justice Rajani Dubey
Order On Board

8.8.2019

1. Heard on admission.
2. This revision is preferred against the order dated 19.12.2018, passed by the Judge, Family Court, Ambikapur, District Surguja(CG) in Misc. Cr. Case No.46/2017, wherein the Family Court has allowed the application filed by the applicants under Section 125 Cr.P.C. and granted maintenance of Rs.2,000/- to applicant No.1 and Rs. 1,500-1500/- to applicants 2 and 3 respectively, total Rs.5,000/- per month.
3. Before the Family Court, it is not disputed that applicant No.1 and the respondent are legally married husband and wife and

applicants 2 and 3 are their daughters and they are living separately. The applicants filed application under Section 125 Cr.P.C. for grant of monthly maintenance on the ground that the respondent has performed second marriage. The respondent is working in Colliery and his earning is Rs.50,000/- per month and he has agricultural land also. The applicants are unable to maintain themselves, therefore, they pray for grant of maintenance from the respondent.

4. In reply, the respondent denied the allegations made by the applicant and he pleaded that the applicant/wife herself did not want to live with him and she left the house on her own will, therefore, she is not entitled for any maintenance.
5. Before the Family Court both the parties have adduced their evidence and after recording their statements, the Family Court vide impugned order dated 19.12.2018 granted total monthly maintenance of Rs.5,000/- as mentioned above. The applicants have filed this revision for enhancement of the maintenance amount stating that the maintenance awarded by the Family Court is very less.
6. Learned counsel for the applicants submits that the order passed by the learned Family Court is unjust and the maintenance of Rs.5,000/- is insufficient for survival of the applicants and thus, it requires to be enhanced. The respondent is working in SECL(Colliery) and he has admitted that he is getting salary of Rs.43,887/- and has agricultural land also, but the learned Family Court has failed to consider

the income of the respondent and awarded very less amount to the applicants. He submits that applicants 2 and 3 are minor and students, therefore, the amount of maintenance is not sufficient for survival of the applicants.

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. The respondent has not filed any revision against the impugned order of maintenance and the applicants have filed this revision for enhancement of the amount of maintenance granted to them, therefore, this Court has to see whether the maintenance awarded by the Family Court is just and proper or not.
10. The respondent has admitted before the Family Court in his evidence that his monthly salary is Rs.43,887/- per month in 2015-2016 and he has land in village Mutki and Harrakachhar, but the Family Court has awarded maintenance only for Rs.2,000/- to applicant No.1-wife and Rs.1500-1500/- to applicants 2 and 3 both the daughters respectively, total Rs.5,000/- per month. The applicant/wife has no source of income, therefore, the maintenance of Rs.5,000/- per month granted to the applicants is very less amount. There is no dispute that the applicants are wife and daughters of the

respondent. 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 applicants requires to be enhanced properly. Accordingly, the revision is allowed and the amount of maintenance awarded to the applicants is enhanced from Rs.2,000/- to Rs.8,000/- to applicant No.1-wife, from Rs.1,500/- to Rs.3,500/- to applicant No.2-daughter and from Rs.1,500/- to Rs.3,500/- to applicant No.3-another daughter, total Rs.15,000/- per month. It is ordered that now the respondent/husband shall pay to the applicants Rs.15,000/- per month as maintenance from the date of passing of this order.

Sd/

(Rajani Dubey)
JUDGE