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HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 180 of 2019**

- Smt. Rameshwari Kansari, wife of Gajendra Kansari, aged about 23 years, resident of Village Bodra, Post Dhaneli, Tehsil Gurur, District Balod, Chhattisgarh

---- Applicant**Versus**

Gajendra Kansari, son of Bharat Kansari, aged about 30 years, resident of Paragon, Post Nawagaon, Tehsil Abhanpur, Police Station Nayapara Gobra Rajim, District Raipur, Chhattisgarh

---- Respondent

For Applicant	: Shri Vijay Sahu, Advocate
For Respondents	: Ms. Laxmin Kashyap, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****05.08.2019**

1. Heard on admission.
2. This revision is preferred against the order dated 7.12.2018, passed by the First Additional Principal Judge, Link/Family Court, Balod (CG) in Misc. Cr. Case No. 150/2016, wherein the applicant/ wife has been awarded monthly maintenance of Rs.4,000/- on her application filed under Section 125 Cr.P.C. claiming Rs.15,000/- 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 (For the sake of convenience the applicant and respondent shall hereinafter be referred as wife and husband respectively). The

marriage between the parties was solemnized on 2.7.2014 according to Hindu rites and customs. One month after their marriage, the husband is alleged to have started taunting the wife for bringing insufficient dowry in marriage and on account of this he tortured her physically and mentally and since June 2016, the wife is living separately. The husband is serving as Assistant Teacher in Govt. School, Khadma, District Gariyaband and getting salary of Rs.29,000/- per month and he has agricultural land from which he is earning Rs.2,00,000/- per year, therefore, the wife claimed maintenance of Rs.15,000/- per month from the husband.

4. The husband, however, has denied all the allegations levelled by the wife while replying to the application under Section 125 Cr.P.C. and it was pleaded by him that he is serving as Shiksha Karmi Grade III and earning Rs.12,000/- per month and he did not have any agricultural land in his name and his mother, father and sister are dependent on him.
5. The learned Family Court after considering the oral and documentary evidence allowed the application filed by the wife and granted maintenance of Rs.4,000/- per month in her favour. Hence, this revision has been filed by the wife for enhancement of the maintenance amount.
6. Learned counsel for the applicant/wife submits that the learned Family Court has recorded the finding that the respondent is earning Rs.28,995/- which is evident from Ex.P/5 salary certificate

and though awarded very less amount. The respondent is also having agricultural land, but the same was not considered by the Family Court. He submits that the Family Court ought to have awarded at least 1/3rd of the income earned by the husband but the Court has awarded only Rs.4,000/- per month which is insufficient to maintain any person, therefore, the maintenance amount should be enhanced.

7. On the other hand learned counsel for the respondent/husband supported the impugned award 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.
9. 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. In this case, the learned Family Court found in para 18 that the husband is earning Rs.28,995/- per month and 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 from Rs.4,000/- to Rs.7,000/- per month. Accordingly, the revision is partly allowed and it is ordered that the respondent/husband shall now pay to the applicant/wife Rs.7,000/- 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