

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 356 of 2019**

- Karmesh Thware, aged about 48 years, S/o late Shri K.L. Thaware, R/o Dr. Ambedakar Nagar, Magarpore, Thana, Civil Lines, Tahsil and District- Bilaspur (Chhattisgarh)

---- Applicant**Versus**

1. Smt. Archana Thaware, W/o Shri Karmesh Thaware, aged about 34 years.
2. Ku. Priyanshi Thaware, D/o Shri Karmesh Thaware, aged about 06 years, Through- natural guardian, mother- Smt. Archana Thaware,

Both are residents of Annapurna Colony, Ganesh Nagar, Thana- Sirgitti, Tahsil and District- Bilaspur (C.G.)

---- Respondents

For Applicant	:	Mr. Vinay Pandey, Adv.
For Respondents	:	Mr. Basant Dewangan, Adv.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

15.07.2019

1. The applicant has preferred this revision against the order dated 08.02.2019 passed by Judge, Family Court Bilaspur, District – Bilaspur (C.G.) in M.J.C. No. 192/2018 whereby the Family Court allowed the application of respondents (wife and daughter) under Section 127 Cr.P.C and directed the applicant herein to pay sum of Rs. 4,500/- each, per month for maintenance to the respondents, total in Rs. 9,000/-.

2. Brief facts of the case are that the applicant and Respondent No. 1 got married on 02.12.2010, as per Hindu rituals and out of their wedlock, respondent No. 2 was born. On 11.11.2011, respondent No. 1 left the house of the applicant and decided to reside separately. Respondents filed an application under Section 125 of Cr.P.C. for grant

of maintenance. The said application was accepted by the Court below on 07.07.2016 and order was passed directing the applicant/husband to pay Rs. 3,000/- each per month to the respondents as maintenance amount. This order was challenged by the applicant/husband before the High Court in CRR No. 1006/2016 which was, later on, dismissed and after that the applicant has been paying the directed amount to the respondents every month. The respondents again filed an application under Section 127 of Cr.P.C. seeking enhancement of the amount of maintenance from Rs. 3,000/- to Rs. 6,000/- per month. The reason assigned by the non-applicant in the application for enhancement of amount is that she has to pay heavy premium of insurance and is bearing miscellaneous expanses. It was also alleged that the applicant is at present earning Rs. 21,759/- per month as a Clerk. The learned Family Court, in its order dated 08.02.2019, enhanced the maintenance amount to Rs. 4,500/- each per month (total Rs. 9,000/-). Hence, this revision petition.

3. Counsel for the applicant submits that the impugned order passed by the learned Family Court dated 08.02.2019 is bad in law, being perverse, erroneous and contrary to the facts and circumstances of the present case. The learned Family Court has passed decree of divorce in favor of the applicant. After divorce, the applicant is willing to remarry and that would be burdening his financial position, which has not been taken on account at the time of passing the impugned order. He further submits that the provisions of Section 127 of Cr.P.C. is not meant for payment of insurance policy of the seeker. Definition of maintenance is quite different and has logical sense, but the learned Court below has failed to test the requirement of enhancement of maintenance on a legal ground. Unnecessary quotes have been reproduced while making the order, which is a matter of serious concern. Learned Court below cannot simply order exorbitant amount without there being any rhyme and reason. The applicant has already burdened by paying Rs. 6,000/- per month and now direction to pay Rs. 9,000/- per month is harassment to the applicant, therefore, the order dated 08.02.2019 of the Family Court is liable to be set-aside

4. On the other hand, supporting the impugned judgment, learned counsel for the respondents submits that the Court below was fully justified in awarding the maintenance.

5. Heard learned counsel for the parties and perused the material on record including the impugned order.

6. Learned Family Court relying on ***Bhagwan Datt v. Kamala Devi & Another (AIR 1975 SC 83)***, allowed the application of respondents. It is a clear fact that from the order dated 07.07.2016 of the Court below, the rate of inflation is on higher side day by day. Respondent No.-1, in her evidence, stated that she is facing financial crisis. Learned Court below discussed all the oral and documentary evidence produced before the Court and find that due to change in circumstances, maintenance should be enhanced and ordered accordingly. Looking to the current scenario, the learned Court below was fully justified in enhancing the maintenance amount from Rs. 3,000/- each to Rs. 4,500/- each, per month in favour of the respondents.

7. In view of above, this Court is of the considered opinion that the order dated 08.02.2019 passed by the Court below being fully justified, do not call for any interference in revision petition.

8. Accordingly, this revision has no substance and it is hereby dismissed.

Sd/-
(Rajani Dubey)
JUDGE