

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 525 of 2018

Naveen Kumar Tiwari, S/o Shri Fanindra Kumar Tiwari, Aged About 39 Years,
Occupation- Service, R/o- Quarter No.- 6 D, Street No. 14, Sector-5, Bhilai,
Tahsil And District- Durg, Chhattisgarh

Office Address- Assistant Manager, Godawari Power And Plant Limited,
Siltara, Raipur, Tahsil And District : Durg, Chhattisgarh

---- Applicant

Versus

Smt. Preeti Tiwari, W/o Shri Naveen Kumar Tiwari, Aged About 35 Years,
Occupation- House Wife, R/o- Satti Bazar, In Front of Mukund Radio, Raipur,
Tahsil And District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Shivendu Pandya, Adv.
For Respondent	:	Shri Anish Tiwari, Adv.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

09/08/2019

The present revision has been filed by the applicant against the order dated 24.03.2018, passed by the learned First Additional Principal Judge, Family Court, Raipur, in M.J.C. No.516/2016, whereby the learned Family Court has allowed the application filed by the respondent under Section 127 of the Cr. P.C. and enhanced the maintenance amount from Rs.4000/- to Rs.7,500/-

2. Brief facts of the case are that the respondent filed an application under Section 125 of the Cr.P.C. for grant of maintenance allowances to her, that application was disposed of vide order dated 20.03.2013 by the learned trial Court and the maintenance allowance to the tune of Rs.4000/- per month was granted to the respondent. After some time,

the respondent has filed an application under Section 127 of the Cr.P.C. for enhancement of the maintenance amount and by impugned order dated 24.03.2018, the learned Family Court has partly allowed the application of the respondent and granted Rs.7,500/- per month as maintenance to him. Hence, this revision.

3. Learned counsel for the applicant submits that the impugned order passed by the Family Court is bad, illegal, perverse and contrary to law and not applicable to the facts and circumstances of the case and material available on record. Learned trial Court has increased the maintenance amount from Rs.4000/- to Rs.7,500/- per month (i.e. Rs.3500/- per month), which is not justified and reasonable looking to present circumstances for livelihood. The respondent is having 40 acres of agricultural land and 3-4 shops which are given on rent. Respondent/wife also earned Rs.15,000/- as rent from the Airtel Tower situated in her house and she is also income tax payee and is able to maintain herself. The applicant's salary is only Rs.12,000/- per month, his salary certificate is Ex.D-1, which shows the income of applicant. It is also submitted that the applicant maintains his parents, who are dependent on him. On 20.03.2013, the maintenance amount of Rs.4000/- has been awarded to the respondent on the basis of compromise done between the parties on this ground that no further litigation will be filed against each other, inspite of this, the respondent has filed the application under Section 127 of the Cr.P.C. for enhancement of the maintenance amount. The respondent has filed four salary slip of the applicant Ex.D-2 is salary slip for the month of February, 2016 and Ex.D-1, which is filed by the applicant is salary slips for the month of January 2017. The applicant in his cross examination denied the document exhibited as Ex.D-2. The applicant is

ready to give the total amount as a maintenance of Rs.5000/- to the respondent, which is settled in the counseling dated 12.01.2017, so the impugned order is liable to be set aside.

4. On the other hand learned counsel for the respondent supported the impugned order.

5. I have heard the Learned Counsel for the parties and perused the record.

6. Previous order passed under Section 125 of the Cr.P.C. application on 23.03.2013, and this order was passed after five years i.e. 24.03.2018, the learned trial Court appreciating the documentary and oral evidence on the basis of evidence adduced by both the parties.

7. In the matter of Hon'ble Rajasthan High Court, passed in **Dhanraj Vs. Kishni and anr., 1998 CRI.L.J. 1312**, it is held that :-

"Inflation, resulting in rise of prices gradually, fall in the purchasing of the currency and consequent deprivations of various kind to persons whose income is limited are facts, of which judicial notice can be taken under Section 114 of the Evidence Act. I, therefore, do not find any force in the submission that the judicial notice of inflation and rising cost of commodities cannot be taken by the Courts unless evidence is produced before it to prove the same."

In the matter of **Mool Chandra Vs. State of U.P. and anr., 2010 CRI.L.J.(NOC) 1264 (ALL.)**, it is held that :- considering the fact that lapse of long span of time had enhanced cost of living and income of husband was enhanced, award of enhance amount of maintenance from Rs.100/- to Rs. 500/- not improper.

8. In the present case the applicant had filed the pay slip of the year 2017 and the wife has filed pay slip of the year 2016, the learned

trial Court has rightly observed that in both the documents exhibited as Ex.D-1 and Ex.D-2, the name and ID number of the applicant are same and on Feb-2016, the gross salary of the applicant was Rs.32,000/- per month, so, it is not possible that on January-2017 his salary would become to Rs.24,607/- per month, and after considering this fact, the trial Court has enhanced the maintenance amount from Rs.4000/- to Rs.7,500/- per month.

9. The applicant admittedly is the husband of the respondent. The amount of Rs.7500/- is hardly sufficient to feed one person in view of the purchasing power of the currency. It is gradually falling on account of inflation. I, therefore, find no merit in the instant revision. It is accordingly, dismissed.

10. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Rajani Dubey)
Judge