

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 756 of 2019**

- Mukesh Kaithavas S/o Shri Dhani Ram Kaithavas, aged about 31 Years, R/o Adarsh Nagar, Charaunda, Civil and Revenue District-Durg, Chhattisgarh.

---- Applicant**Versus**

- Smt. Kavita Kaithavas W/o Shri Mukesh Kaithavas, aged about 27 Years, R/o in front of Om Shanti Katej, Hemu Nagar, Police Station -Torwa, Civil and Revenue District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. P. M. Shrivastava, Adv.
For Respondent	:	None present.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****25.09.2019**

1. Heard on Admission.
2. The applicant has preferred this revision against the order dated 29.04.2019, passed by learned Judge, Family Court, Bilaspur (C.G.) in Miscellaneous Criminal Case No. 546/2018 whereby the learned trial Court allowed the application of respondent filed under Section 127 of the Cr.P.C. and enhanced the maintenance amount from Rs. 1,600/- per month to Rs. 2,000/- per month in favour of Respondent.
3. Brief facts of the case are that respondent is legally wedded wife of petitioner, their marriage was solemnized as per their custom, but, after some time of marriage, they are residing separately. After that, respondent (wife) had filed an application under Section 125 Cr.P.C. before the trial Court. The matter was settled in Lok Adalat and on 09.12.2017 the learned Lok Adalat passed an order of compromise and granted Rs. 1,600/- per month maintenance in favour of respondent (wife). The respondent (wife), after some time on 28.06.2018, again filed an application

under Section 127 of Cr.P.C. for enhancement of maintenance award granted by Lok Adalat. The learned trial Court, by impugned order dated 29.04.2019 allowed the application of the respondent and enhanced the maintenance amount from Rs. 1,600/- per month to Rs. 2,000/- per month. Hence, this revision.

4. Learned counsel for the applicant submits that the impugned order passed by the trial Court is bad, illegal and against the eye of law because the impugned order was passed without seeing the facts and circumstances of the case and enhanced the maintenance amount in favour of the respondent. He further submitted that the learned trial Court has failed to consider the fact that once the matter is compromised in the Lok Adalat, that cannot be appealed or revised, therefore, she is not entitled for any enhancement in maintenance from the petitioner and the impugned order is liable to be set-aside.

5. None for the respondent though notice has been served.

6. Heard learned counsel for the applicant and perused the material available on record including the impugned order.

7. Before the trial Court, it is an admitted fact that applicant and respondent are legally married husband and wife. It is also an admitted fact that their previous matter was settled before the Lok Adalat in which respondent (wife) was granted Rs. 1,600/- per month as maintenance from the applicant, thereafter, an application under Section 127 of Cr.P.C. has been filed by the respondent before the trial Court for enhancing the maintenance amount and, on 09.12.2017, the 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 of inflation, the learned Court below was fully justified in enhancing the maintenance amount from Rs. 1,600/- to Rs. 2,000/- per month in favour of the respondent.

8. As far as the income of the applicant is concerned, as learned counsel for the applicant submits that the petitioner has no source of income and the fair income is not established in that

case, however, considering the prevailing minimum wages rate of Rs. 300/- per day which it comes to Rs. 9,000/- per month, it can be easily inferred that the applicant earns amount equivalent to the minimum wages. The Family Court had granted total maintenance of Rs. 2,000/- to his wife which cannot be said to be disproportionate or unreasonable looking to the present price index.

9. In view of above, this Court is of the considered opinion that the order dated 29.04.2019 passed by the Court below being fully justified, do not call for any interference in revision petition.

10. Accordingly, this revision has no substance and it is hereby dismissed at motion stage itself.

**Sd/-
(Rajani Dubey)
JUDGE**

Vijay Sahu