

HIGH COURT OF CHHATTISGARH, BILASPUR
CRR No. 804 of 2019

- Gorelal, S/o Avadhram Rathore, aged about 47 years, R/o Village Jharna, Police Station Baradwar, Tahsil Sakti, District Janjgir-Champa (C.G)

---- Applicant

Versus

- Kirtanbai, aged about 48 years, W/o Gorelal, Caste Rathore, at present R/o Village Durpa, Police Station Baradwar, District Janjgir-Champa (C.G.)

---- Respondent

For Applicant	:	Mr. Deepak Kumar Singh, Adv.
For Respondents	:	Mr. Ishwar Jaiswal, Adv.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

19.09.2019

1. The applicant has preferred this revision against the order dated 14.06.2019, passed by learned Judge, Link Family Court, Sakti, District Janjgir-Champa (C.G.) in Miscellaneous Criminal Case No. 12/2019, 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. 1,200/- per month to Rs. 2,500/- per month in favour of Respondent.

2. Brief facts of the case are that earlier, respondent (wife) had filed MCRC No. 38/2010 against petitioner which was allowed by the trial Court on 08.09.2011 and learned trial Court granted Rs. 1,200/- per month as maintenance. After some time, on 04.02.2019 respondent again filed an application under Section 127 of Cr.P.C for enhancement of the maintenance amount which was allowed by the learned family Court and directed the applicant (husband) to pay Rs. 2,500/- per month as maintenance. Hence, this revision.

3. Learned counsel for the applicant submits that the order dated 14.06.2019 is bad, illegal and contrary to law and deserves to be set-aside. The order of family Court is based on conjecture and surmises. He further submits that the income of the present applicant, as claimed by the respondent, herein has not been proved by her. Learned family Court has wrongly held that applicant earns income of Rs. 8,000/- to 10,000/- per month from tailoring job. Applicant is running his shop in a very small village and the maintenance which was granted by the Court below is very huge for him. Per contra, respondent avails benefit of ration card granted by government and gets rice, sugar, kerosene oil etc. Except that, respondent having agricultural land and earns a huge income from the said land, therefore, she is not entitled for any maintenance from the petitioner.

4. On the other hand, supporting the impugned judgment, learned counsel for the respondent 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. Before the trial Court, it is an admitted fact that respondent filed an application under Section 125 of Cr.P.C. against petitioner which was registered as MCRC No. 38/2010 and learned trial Court allowed the application and granted Rs. 1,200/- per month towards maintenance in favour of the respondent. Respondent again filed an application under Section 127 of Cr.P.C on 04.02.2019, after a long time. Learned trial Court in its order dated 14.06.2019, allowed the application of respondent and enhanced the maintenance amount. It is a clear fact that from the order dated 08.09.2011 of the Court below, the rate of inflation is on higher side day by day. 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. 1,200/- to Rs. 2,500/- per month in favour of the respondent.

7. As far as the income of the applicant is concerned, as learned counsel for the petitioner 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. 2,500/- to his wife which cannot be said to be disproportionate or unreasonable looking to the present price index.

7. In view of above, this Court is of the considered opinion that the order dated 14.06.2019 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**