

HIGH COURT OF CHHATTISGARH, BILASPUR
CRR No. 1203 of 2016

1. Smt. Saroj W/o Chandrashekhar Mahilange Aged About 38 Years R/o Village- Sirsakala Police- Station Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh. Present Address World Bank Colony Bhilai- 3, Police- Station- Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh.
2. Motilal S/o Chandrashekhar Mahilange Aged About 14 Years Are Minor Legal Warden Is Applicant No. 1 Is Mother, R/o Village- Sirsakala Police- Station Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh. Present Address World Bank Colony Bhilai- 3, Police- Station- Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh
3. Rupendra Kumar S/o Chandrashekhar Mahilange Aged About 12 Years R/o Village- Sirsakala Police- Station Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh. Present Address World Bank Colony Bhilai- 3, Police- Station- Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh.

---- Applicants

Versus

- Chandrashekhar Mahilange S/o Jethu Mahilange Aged About 43 Years R/o Village- Sirsakala Police Station Bhilai- 3, Tahsil- Patan, District- Durg, Chhattisgarh. Profession Personnel No. 400353, Roll Turning And Repairing Shop Bhilai Steel Plant Bhilai Police- Station- Bhilai Bhatthi Sector- 03 Tahsil And District- Durg, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Ravi Maheshwar with B.L Sahu, Adv.
For Respondent	:	Mr. A.D. Kuldeep, Adv.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

01.10.2019

1. The applicants have preferred this revision against the order dated 03.12.2016 passed by First Additional Principal Judge, Family Court, Durg (C.G.) in Miscellaneous Criminal Case No. 619/2015, whereby the learned trial Court allowed the application of applicant No. 1 and dismissed the application of applicants No. 2 & 3 under Section 127 of Cr.P.C.

2. Brief facts of the case are that applicant No. 1 Smt. Saroj and respondent are wife and husband and applicants No. 2 & 3 are their children. Since, applicants are living separately from respondents, they filed application under Section 125 of Cr.P.C, which was registered as Miscellaneous Criminal Case No. 95/2005 and on 6.07.2006 learned third Additional Principal Judge, Family Court, Durg allowed the application of applicants and granted Rs. 500/- per month in favour of each applicants towards maintenance. Thereafter, applicants filed application under Section 127 of Cr.P.C. for enhancing the amount of maintenance granted by learned third Additional Principal Judge, Durg. On 03.12.2016, learned trial Court partly allowed the application of the applicants and enhanced the maintenance amount of applicant No. 1 (wife) as Rs. 3,000/- per month and dismissed the application of applicants No. 2 & 3. Hence, This revision petition filed by the applicants.

3. Learned counsel for the applicants submits that the impugned order passed by the Court below is illegal and bad in law. Learned trial Court passed the impugned order without considering the proper facts and ground of the applicants and enhanced only Rs. 3,000/- per month whereas the non applicant earns about Rs. 50,000/- per month. He further submits that respondent has executed wills in the name of his children of his parental property which will come into force after his death, but here is the question of survival of today. He next submitted that the applicants No. 2 & 3 are students and due to lack of money their education is brutally effected because applicants have no source of income. Therefore, order dated 03.12.2016 of the trial Court is liable to be modified and the maintenance amount may be enhanced suitably.

4. Learned counsel for the respondent supported the impugned order and submitted that the maintenance amount awarded by the learned Family Court is just and proper.

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

6. Learned trial Court, after appreciating the oral and documentary evidence found that applicant No.2 Motilal is residing with respondent and applicant No. 3 Rupendra Kumar is above 18 years old so, trial Court has dismissed their claim of maintenance and this Court does not find any illegality or infirmity in the order impugned in respect of Applicant Nos. 2 & 3.

7. As far as applicant No. 1 is concerned, it is not disputed that applicant No. 1 Smt. Saroj is wife of respondent and she is unable to maintain herself. Learned trial Court found that respondent is a fitter in Bhilai Steel Plant and earns a good income but the learned trial Court has granted only Rs. 3,000/- per month which is on lower side. Thus, considering the aforesaid factual aspect of the matter, and further considering the present inflation in commodity, maintenance amount granted by learned Family Court is so meager.

8. Considering the totality of the facts and evidence adduced by the parties, this court is of the view that applicant No. 1 is entitled for enhancement of maintenance amount.

9. In the result, the impugned order of the Family court is modified and it is directed that the respondent/husband shall pay Rs 6,000/- to per month towards maintenance to applicant No.1 (wife), with effect from today.

10. Accordingly, the revision is partly allowed to the extent indicated herein above.

Sd/-
(Rajani Dubey)
JUDGE