

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 215 of 2019

Order Reserved on : 19/12/2019

Order Delivered on : 29/01/2020

- Ajay Kumar Reddy (Petitioner in Person) S/o Mr. Parmonand Reddy Aged About 50 Years, R/o Sector-1, Devendra Nagar, Raipur, Tehsil and Distirct- Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Smt. Rajshree Naidu, Aged About 46 Years, D/o Mr. Bramhraj Naidu, R/o Q.No. 1/A, Street No. 36, Sector-8, Bhilai, Tehsil and District- Durg, Chhattisgarh.
2. Ku. Anushka Reddy, D/o Mr. Ajay Reddy aged about 18 Years (Now major so no need to represent by mother), R/o Q.No. 1/A, Street No. 36, Sector-8, Bhilai, Tehsil and District- Durg, Chhattisgarh.

---- Respondents

&

CRR No. 377 of 2019

1. Smt. Rajshri Naidu, D/o Shri Bramharaj Naidu, Aged About 38 Years, R/o Qr. No. 1/A, Street No. 36, Sector-8, Bhilai, District-Durg, Chhattisgarh.
2. Ku. Anushka Reddy, D/o Ajay Kumar Reddy, Aged About 12 Years, (Now 18 Years), R/o Qr. No. 1/A, Street No. 36, Sector-8, Bhilai, District-Durg, Chhattisgarh.

---- Petitioners

Versus

- Ajay Kumar Reddy, S/o Shri Parmanand Reddy, Aged About 43 Years, R/o D/19, Sector-1, Devendra Nagar, Raipur, Tahsil and District-Raipur, Chhattisgarh.

---- Respondent

For Petitioners	:Mr. Ajay Kumar Reddy, Petitioner in person in CRR No.215/2019 & respondent in person in CRR No.377/2019.
For Respondents	:Mr. Barun Kumar Chakrabarty, Advocate for respondent in CRR No.215/2019 & petitioner in CRR No.377/2019.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
CAV Order

29/01/2020

Heard.

1. Criminal Revision No.215/2019 has been brought by the petitioner-husband being aggrieved by the order dated 11.1.2019 by which the prayer of for enhancement of amount of maintenance to respondent No.2 was allowed, whereas Criminal Revision No.377/2019 has been filed seeking for further enhancement of maintenance awarded by the Court below vide order dated 11.1.2019 on the ground that the maintenance enhanced is on lower side.
2. It is submitted by the petitioner in CRR No.215 of 2019, that the learned Court below erred in passing order for enhancement of maintenance in favor of respondent No.2. The petitioner had very clearly proved that he is getting monthly salary of Rs.47,386/- only, out of which he has to make payment of monthly installment of Rs.30,000/- towards the housing loan obtained by him for the purchase of house, which has been unauthorizedly occupied by respondent No.1. Respondent No.1, wife of petitioner, herself is having sources of income. It is also submitted that respondent No.2 has now become major, therefore, the order of enhancement of maintenance and payment of the same is against the provisions of law.

Reliance has been placed on the judgment of Padmja v. Ratan Lal Sharma, reported in AIR 2005 SC 1398. It is submitted that the earning wife is also under an obligation to contribute to the maintenance of children along with her husband, therefore, the Court below was not justified in saddling the entire responsibility of maintenance on the petitioner. Hence, the impugned order is liable to be interfered with.

3. Learned counsel for respondent in this case and petitioner in CRR No.377/2019 submits, that the respondents/petitioners are equally aggrieved by the impugned order as the enhancement has not been made as it was prayed for in the application. It is submitted that the

petitioner in CRR No.215/2019 is an employee of Bhilai Steel Plant and getting huge salary; thus he is capable of paying maintenance so ordered, therefore, there is no ground for its reduction. On the contrary, the grounds on which enhancement was prayed for have not been considered by the Court below. Respondent No.2 has undergone studies for which huge expenditure has been made so far, therefore, the enhancement should have been ordered in accordance with the expenses required for the education of respondent No.2. Hence, it is prayed that the impugned order be interfered with and relief as claimed in CRR No.377/2019 be granted.

4. In reply, it is submitted by the petitioner in person, that the learned Court below has not considered the responsibility of the petitioner in making payment of monthly installment for the house which was purchased after obtaining loan from bank. Responsibility of respondent No.2 is not of the petitioner alone. The respondent/petitioner in 377/2019 has already taken benefits of the possession of the house of petitioner and making a saving of rent which is also a contribution of the petitioner. The respondent has made a false statement regarding the education of respondent No.2 and the expenses for the same and, further, the respondent No.2 has now attained majority, therefore, the responsibility of petitioner is no more, hence, the impugned order is liable to be set aside.
5. I have heard both the parties and perused the documents on record.
6. The petition for enhancement under Section 127 of CrPC was filed on 2.9.2013 which remained pending for about 6 years and decided on 11.1.2019.
7. The petitioner had in his reply, stated that he has been paying monthly installment of the house loan since the year 2002 to 2014 and there is still balance of Rs.1,50,000/- and the balance Rs.1,50,000/- to be paid in the year 2014 which itself shows that at present there is no burden on the petitioner of repayment of loan or making payment of any monthly installment of the amount borrowed by him for purchasing the house. Allegation of the petitioner regarding unauthorized possession by respondent No.1 of the house purchased by him and also regarding

the payment of other expenses with respect to the same house is different issue and not concerned with the entitlement of respondent No.2 for getting maintenance from her. Respondent No.2 appears to have attained adulthood at present, but the requirement for her upbringing and education was always there. The amount of maintenance that has been ordered by the learned Family Court in the earlier order and then enhanced by the impugned order itself appears to be a meager amount which cannot be regarded as sufficient for the purposes of maintenance as well as education of respondent No.2. Submission of the petitioner that respondent No.1 as well has the responsibility for maintenance and education of child is acceptable, but it cannot be said that the respondent No.1 has not taken care of the respondent No.2 in maintaining and educating her by giving her own contribution.

8. From the averments of the petitioner in his reply, which were filed on 27.7.2015 itself appears that on the present date the petitioner has no burden for payment of any installment and the enhancement made by the learned Family Court with respect to the maintenance of respondent No.2 is not at all creating any huge burden on the petitioner, therefore, I do not find any reason to hold that the impugned order suffers from any infirmity, illegality or incorrectness. At the same time, the prayer of the petitioner in CRR No.377/2019 does not appear fit for entertainment for the reason that petitioner Rajshree Naidu herself has made admission regarding her sources of income and it is the burden of her part also to maintain respondent No.2. The expenses on the education of respondent No.2 as have been elaborated in the application filed by the petitioner in Cr. Rev. No.377/2019 have not been proved by bringing any documentary evidence. The impugned order of the learned Family Court does not suffer from any infirmity. However, after perusing the evidence brought by the parties in the proceeding, this Court holds that the enhancement required for the respondent No.2 had been in accordance with law. Respondent No.2 had been a growing child, therefore, it can be safely assumed that the needs and requirements there being enhanced day by day, therefore, the enhancement in the maintenance given by the learned Court below appears to be sufficient and there is no further need found to make any

further enhancement and also there is no need of reduction in the same.

9. Claim of the petitioner in Cr. Rev. 215/2019 that respondent No.2 has now attained majority shall be considered by the Court below if any such ground is raised in the execution proceeding or by filing a separate application under Section 127 of CrPC, however, on the basis of this averment, no order can be passed in this revision petition, Therefore, after considering on all the aspects and submissions made by both the sides, I am of this view that it is held that there is no requirement to interfere with impugned order.

10. Consequently, both the petitions are liable to be dismissed and are hereby dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge