

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 335 of 2014

1. Sahodara Bai, W/o. Dhanesh, aged about 37 years, Occupation – Agriculturist,
2. Manisha, D/o. Dhanesh, aged about 16 years, Occupation – Student.
3. Ravikumar, S/o. Dhanesh, aged about 11 years,
No.2 & 3 minors through natural guardian mother Sahodara Bai,
All are R/o. Sukhataal, presently at Bodhaikunda, P.S. Pipariya, Tah. Kawardha, Distt. Kabirdham C.G.

---- Applicants

Versus

Dhanesh, S/o. Dwarika Verma, aged about 39 years, R/o. Sukhataal, P.S. Kawardha, Distt. Kabirdham C.G.

-----Respondent

For Applicants	: Mr. Animesh Verma, Advocate
For Respondent	: Mr. Govind Ram Miri, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/03/2020

1. This petition has been brought being aggrieved by the order dated 28.02.2014, passed by the learned Family Court, Kabirdham (Kawardha) in Miscellaneous Cr. Case No.360 of 2013 praying for enhancement of the maintenance.
2. At the very outset, it is submitted that the applicant No.2 has now become major and she has also been married. It is further submitted that the learned Family Court has granted maintenance to the applicants, which is too much on the lower side and not sufficient to meet the expenses for their daily

needs. The applicants side had brought evidence that the respondent is man of sufficient means, therefore, he is capable for paying maintenance of Rs.2,000/- to the applicant No.1 and Rs.1,000/- to the applicants No.2 and No.3, even then the learned Family Court has ordered the maintenance in half of the amount prayed. Therefore, it is prayed that the petition be allowed and the impugned order be interfered with by passing order for enhancement of maintenance.

3. Counsel for the respondents opposes the petition and the submission made in this respect. It is submitted that the applicants had the option available to file application under Section 127 of Cr.P.C., therefore, this revision petition is not maintainable. It is also submitted that it has been held by the Family Court itself that income of the respondent is only Rs.5,000/- per month, therefore, the amount ordered that was in total Rs.2,000/- was within the capacity of the respondent. Subsequent to the marriage of the applicant No.1, the respondent has married again in customary manner and he has children from the second marriage, who are dependent upon the respondent, therefore, any enhancement in the maintenance for the applicant shall make family of the respondent suffer. It is submitted that he has information that the applicant No.2 has been married. It is also submitted by the counsel for respondent that the respondent has contributed Rs.50,000/- in the marriage of the applicant No.2, therefore, he has taken care of his

responsibilities. Hence, he should not be further burdened with enhanced maintenance. Hence, the petition be dismissed.

4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. There appears to be no dispute regarding entitlement of the applicants for receiving maintenance from the respondent. Further the applicant No.2, who has become major now is also married, therefore, the respondent is no longer liable to pay any maintenance to the applicant No.2.
6. On perusal of the impugned order and the evidence i.e. present on record of the Family Court, it is found, that the conclusion drawn that the respondent has monthly income of Rs.5,000/- is based on the evidence after appreciation, which needs no interference. This is also taken notice of that the respondent has other liabilities. The claim of the applicants that the respondent is man of means and he can pay enhanced maintenance is not supported with the evidence i.e. present on record of the proceedings. Hence, on the basis of the present material it can not be said that the respondent is capable making payment of any enhanced maintenance amount. However, this revision petition is disposed off with certain modification. As the respondent is no longer liable to make payment to the applicant No.2, therefore, the maintenance of Rs.500/- granted to the applicant No.2, shall now be payable to the applicant No.1, who shall now get maintenance of Rs.1500/- per month. The

maintenance order for applicant No.3 shall remain as it is. However, the applicants side have liberty to file application under Section 127 of Cr.P.C. in case they are able to prove that circumstances have changed and that the capability of the respondent has also made progress.

7. Accordingly, the petition is disposed of with the aforesaid observation.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram