

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 695 of 2018

- Chintaram Sahu S/o Kamal Prasad Sahu, Aged About 54 Years (now aged about 56 years), Messenger, State Bank of India, Branch Saraipali, Tahsil and Police Station- Saraipali, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- Smt. Kamla Sahu W/o Chintaram Sahu, Aged About 49 Years, R/o- Tumgaon Chowk, Ward No.14, Behind Buddhvihar, Mahasamund, Tahsil and District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

--- Non-applicant

For Applicant – Shri Raghavendra Pradhan, Advocate.

For Non-applicant – Shri Gajendra Kumar Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-02-2020

Heard.

1. By this revision petition the correctness, propriety and legality of the order dated 30-05-2018 passed in Misc. Criminal Case No.159/2017 by the learned Family Court has been challenged. By this order the learned Family Court has enhanced the maintenance amount of Rs.5000/- ordered under Section 125 of the Cr.P.C. to Rs. 7000/- per month on the application filed under Section 127 of the Cr.P.C.

2. It is submitted that the applicant is husband of the respondent. He is a fourth grade employee in State Bank of India branch Saraipali. His total net salary Rs.23,331/- only. The applicant has to pay monthly rent of his house which is Rs. 3500/- and he has other responsibilities to fulfill. The respondent is living in the house of the applicant which is situated in Saraipali, therefore, she is benefited with accommodation for which she does not have to pay any rent and also the son of the respondent is a businessman running a Paan Shop, also having ownership of trucks. Therefore, the order of enhancement cannot be said to be proportionate to the income of the applicant. Relying on the

judgment of Division Bench of this Court passed in FAM No.128/2019 (Sourabh Modi Vs. Smt. Neelam Modi) decided on 12-07-2019 it is submitted that the impugned order be interfered with.

3. Learned counsel for the respondent opposes the submission made on behalf of the applicant and submits that no error has been committed by the learned Family Court in enhancing the maintenance, therefore, there is no need of interference.

4. Heard learned counsel for the parties and perused the documents.

5. Admittedly the applicant is a salaried 4th class employee and has net salary Rs.23,331/- per moth. The applicant is residing in the place other than the place where his own house is situated, therefore, he has burden of paying of rent of rented house apart from meeting of other responsibilities. It is not denied by the respondent side that the respondent is residing in the house of the applicant situated in Mahasamund, therefore, she has no burden of paying rent. Therefore, considering the burden of the applicant and the benefit of the respondent, enhancement to be made should have been balanced by the Court below, which has not been balanced accordingly, hence, the order of the Court below needs to be interfered with. Hence, the revision petition is allowed with modification. The amount of maintenance in the impugned order Rs.7000/- is reduced to Rs.6000/- per month which shall be paid by the applicant for every month to the respondent from the date of the order of the Family Court.

6. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge