

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 92 of 2017

Virendra Kumar Gupta S/o Mansingh Gupta Aged About 65 Years R/o Lalipur Ward, Mandla, Police Station- Kotwali Nagar, Tahsil And District Mandla, Madhya Pradesh.

---- Applicant

Versus

Ku. Meetu Gupta D/o Virendra Kumar Gupta Aged About 29 Years R/o Near The House Of Ashok Rao, Gondpara, Bilaspur, Chhattisgarh, Tahsil and District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Viprasen Agrawal, Advocate.
For Respondent	: Shri Ratnesh Kumar Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

14-01-2021

Heard.

1. This criminal revision petition has been brought being aggrieved by the order dated 29.11.2016 passed by the Learned Additional Principal Judge, Family Court, Bilaspur granting enhancement of maintenance to the respondent.
2. Learned counsel for the applicant submits that the Learned Family Court has passed an erroneous and illegal order. The respondent though daughter of this applicant, is major, therefore, she has no entitlement for grant of any maintenance in her favour according to the provision under Section 125(1) of the Cr.P.C., however, the maintenance was granted to the respondent under Section 125 of the Cr.P.C. in M.J.C. No. 247 of 2009 vide order dated 28.10.2009, of Rs.2,000/- per month. The prayer for enhancement under Section 127 of the Cr.P.C was made only on the ground of the devaluation and cost escalation and also on the basis of

raised cost of living. Learned Court did not give any consideration that the income of this applicant had reduced, who is suffering from illness as he is of age about 65 years at present, therefore, he should not have been burdened with the enhancement as ordered by the learned Family Court. It was observed by the learned Family Court in the impugned order in paragraph 12 that any enhancement in the maintenance order will not be justified, but then the order has been passed for enhancement, therefore, the order is not sustainable. Hence, the prayer has been made for setting aside the impugned order.

3. Learned counsel appearing for the respondent opposes the submissions so made and submits that it was the burden of the applicant himself to prove by bringing evidence about the reduction of his income and increase of his liabilities, which has not been done. It is further submitted that the learned Court has relied upon the judgment of this Court in **Smt. Sushila Bai and Anr. vs. Bisauharam**, reported in **2009 (4) C.G.L.J. 432**, in which this Court had held that even an unmarried daughter who is unable to maintain herself is entitled for grant of maintenance, therefore, the applicant cannot challenge the order of maintenance in favour of the respondent and also the enhancement made by the impugned order. Hence, the revision petition be dismissed.
4. Heard learned counsel for both the parties and perused the documents.
5. Considered the submissions. The order that has been passed in M.J.C. No. 247 of 2009 dated 28.10.2009 has not been challenged. It is not denied and disputed that the respondent is still unmarried and she is the daughter of this applicant. In the case of **Smt. Sushila Bai and Anr. vs. Bisauharam** (supra), this Court had observed in paragraph 10 is as follows:

'10. While dealing with the same question of award of maintenance to unmarried daughter after attaining the age of majority, the Apex Court in the matter of Jagdish (supra), after applying the principle has dismissed the S.L.P. filed against the award of maintenance to the major unmarried daughter under [Section 125](#) of the Code. Paras 3 & 4 of the said judgment read thus,

"3. In view of the finding recorded and the observations made by the learned Single Judge of the High Court, the only question that arises for consideration is whether the order calls for interference. A similar question came up for consideration by this Court in the case of **Noor Saba Khatoon vs. Mohd. Quasim** (supra) relating to the claim of a Muslim divorced woman for maintenance from her husband for herself and her minor children. This Court while accepting the position that [Section 125](#) CrPC does not fix liability of parents to maintain children beyond attainment of majority, read the said provision and [Section 3\(1\)\(b\)](#) of the Muslim Women (Protection of Rights on [Divorce](#)) [Act](#) together and held that under the latter statutory provision liability of providing maintenance extends beyond attainment of majority of a dependent girl.

4. Applying the principle to the facts and circumstances of the case in hand, it is manifest that the right of a minor girl for maintenance from parents after attaining majority till her marriage is recognized in [Section 20\(3\)](#) of the Hindu Adoptions and [Maintenance Act](#). Therefore, no exception can be taken to the judgment/order passed by the learned Single Judge for maintaining the order passed by the Family Court which is based on a combined reading of [Section 125](#) CrPC and [Section 20\(3\)](#) of the Hindu Adoptions and [Maintenance Act](#). For the reasons afore-stated we are of the view that on facts and in the circumstances of the case no interference with the impugned judgment/order of the High Court is called for."

Therefore, the observation made in the impugned order regarding the entitlement of the respondent for maintenance appears to be justified.

6. As regards, the challenge to the enhancement in this revision petition, it has been observed in the paragraph 12 of the impugned order that the increase in prices and expenses of living cannot be denied. It was also observed that the income of the applicant may have reduced but at the same time there is no evidence present to show that the income of the respondent had increased and on that basis, the order of enhancement has been passed.
7. The submissions that have been made from the applicant's side are vague, as to in what manner the income of the applicant has been reduced, whereas, it has been mentioned in the impugned order that the applicant is a Proprietor of the Explosives Shop, who is taking care of his other liabilities and ignoring his responsibility towards the respondent. Hence, on the basis of such vague submissions and arguments advanced, the present petition cannot be entertained. Hence, this petition is dismissed at motion stage.
8. Accordingly, this criminal revision is dismissed at motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
Judge