



WEB COPY



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.11.2023

Delivered on : 02.08.2024

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 of 2020 and 15451 of 2019

In Crl.R.C.No.1348 of 2019

1. S.R.Geethanjali
2. Sandhana (Minor Daughter)
3. Prem Sagar (Minor Son) ...Petitioners/Petitioners/Petitioners

-Vs-

P.Ganesh ...Respondent/Respondent/Respondent

In Crl.R.C.No.1150 of 2019

P.Ganesh ...Petitioner/Respondent

-Vs-

1. S.R.Geethanjali
2. Sandhana (Minor Daughter)
3. Prem Sagar (Minor Son) ...Respondents/Petitioners

Prayer in Crl.R.C.No.1348 of 2019:- Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., to set aside the order passed by the learned 1st Additional Principal Judge, Family Court, Chennai made in M.P.No.189 of 2018 in M.C.No.356 of 2006 dated 29.07.2019 and to enhance the maintenance to each of the Petitioners at Rs.15,000/- each per month sought in the petition.



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

Prayer in Crl.R.C.No.1150 of 2019:- Criminal Revision case is filed under Section 397 r/w.401 of the Cr.P.C and set aside the order in M.P.No.189 of 2018 in M.C.No.356 of 2006 on the file of the Hon'ble I Additional Family Court, Chennai dated 29.07.2019.

In Crl.R.C.No.1348 of 2019

For Petitioners : Mr.P.Jagadeesan
For Respondent : Mr.N.Kumar Rajan

In Crl.R.C.No.1150 of 2019

For Petitioners : Mr.N.Kumar Rajan
For Respondent : Mr.P.Jagadeesan

COMMON ORDER

The Criminal Revision case has been filed to set aside the order passed by the learned I Additional Principal Judge, Family Court, Chennai in M.P.No.189 of 2018 in M.C.No.356 of 2006 dated 29.07.2019.

2. The learned Counsel for the Revision Petitioner in Crl.R.C.No.1348 of 2019 (Wife) submitted that the submission of the learned Counsel for the Revision Petitioner (Husband) in Crl.R.C.1150 of 2019 that the minors are not entitled to maintenance after attaining the age of majority and the order passed by the learned I Additional Principal Judge, Family Court, Chennai in M.P.No.189 of 2018 in M.C.No.356 of 2006 ordering enhancement from



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

WEB COPY

Rs.2,000/- to Rs.7,000/- for the wife and the minor children and also in the same order, stating that the minor children are entitled to maintenance till they had not attained the age of majority cannot hold good for the minor daughter. As the minor daughter even after attaining age of majority had to be maintained by the father till she is married off.

3. Also the learned Counsel for the Revision Petitioner (Wife) in Crl.R.C.No.1348 of 2019 stated that there is proof before the learned I Additional Principal Judge, Family Court, Chennai that the Husband is drawing Rs.70,000/- per month. Enhancement of the maintenance amount ordered in M.P.No.189 of 2018 in M.C.No.356 of 2006 from Rs.2000/- to Rs.7,000/- per month is meagre and it should have been Rs.10,000/- per month.

4. The learned Counsel for the Revision Petitioner in Crl.R.C.No.1348 of 2019 (Wife) submitted that the submission of the learned Counsel for the Husband in Crl.R.C.No.1150 of 2019 that the Wife had constructed the first floor and let out the same for rent and also the ground floor of the house was already constructed by the Husband by obtaining loan from LIC and still he



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

is paying EMI and also let out by the wife. It is not true that she is residing with the parents and it is denied.

5. It is the further submission of the learned Counsel for the Revision Petitioner (Wife) in Crl.R.C.No.1348 of 2019 that the Wife is still residing on the ground floor and the first floor portion was not let out. The first floor consist of one room. It was constructed for the benefit of her son, who is studying Degree Course and she had not let out the same.

6. The said submission made by the learned Counsel for the Revision Petitioner (Husband) in Crl.R.C.No.1150 of 2019 is made only for the purpose to deny her the enhancement of maintenance. Further the learned Counsel for the Revision Petitioner (Wife) in Crl.R.C.No.1348 of 2019 submitted that the Wife was not at all employed. Prior to her marriage, she was employed. After marriage and birth of two children, she had resigned her job to take care of her children.

7. In the absence of any document proof filed by the Revision Petitioner (Husband) in Crl.R.C.No.1150 of 2019 regarding employment



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

and salary of the Revision Petitioner in Crl.R.C.No.1150 of 2019, the submission of the learned Counsel for the Revision Petitioner in Crl.R.C.No.1150 of 2019 is to be rejected. Crl.R.C.No.1150 of 2019 is to be dismissed and the Revision filed by the Wife in Crl.R.C.No.1348 of 2019 is to be allowed and the maintenance to be modified as Rs.15,000/- per month as was sought by her in M.P.No.189 of 2018 in M.C.No.356 of 2006.

8. Also the learned Counsel for the Revision Petitioner in Crl.R.C.No.1348 of 2019 (Wife) submitted that the daughter is entitled to maintenance till she gets married and till date, she is not married.

Point for consideration:

(i) Whether the Petition Crl.R.C.No.1150 of 2019 is to be allowed and order passed in M.P.No.189 of 2018 in M.C.No.356 of 2006 is to be set aside.

(ii) Whether the Criminal Revision preferred by the Wife in Crl.R.C.No.1348 of 2019 is to be allowed and the order of the learned I Additional Judge Family Court, Chennai allowing M.P.No.189 of 2018 in M.C.No.356 of 2006 and ground of enhancement amount of maintenance by Rs.7,000/- is to be further enhanced.



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

9. Heard the learned Counsel for the Revision Petitioner in Crl.R.C.No.1150 of 2019 (Husband) and the learned Counsel for the Revision Petitioner in Crl.R.C.No.1348 of 2019 (wife). Perused the order passed by the learned I Additional Principal Judge, Family Court, Chennai in M.P.No.189 of 2018 in M.C.No.356 of 2006.

10. The learned Counsel for the Revision Petitioner in Crl.R.C.No.1150 of 2019 (Husband) also submitted the following reported decisions in the support of his submission;

(i) in the case of *Nitaben Dineshkumar Oza -vs- Dineshkumar Ishwarlal Oza and another* order passed by the Hon'ble High Court of Gujarat reported in **CDJ 2016 GHC 092** and

(ii) in the case of *Jyoti @ Gayatri -vs- Rohit Sharma @ Santosh Sharma*, order passed by the Hon'ble High Court of Delhi reported in **CDJ 2022 DHC 488**.

11. The learned Counsel for the Revision Petitioner in Crl.R.C.No.1150 of 2019 (Husband) sought to allow Crl.R.C.No.1150 of 2019 and dismiss the Crl.R.C.No.1348 of 2019 in the light of the reported



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

decisions cited by him. The reported decision relied by the learned Counsel for the Revision Petitioner (Husband) in Crl.R.C.No.1150 of 2019 in **CDJ 2016 GHC 092** is regarding the fact that the minor son is entitled to maintenance till he attains the age of majority.

12. As per the reported ruling in **CDJ 2022 DHC 488**, the revision filed by the Wife seeking maintenance was dismissed on the ground that the order passed is a well reasoned order in the absence of the proof and income of the Husband. The learned Judge having ordered maintenance of Rs.2,000/- from the date of the filing of the petition for maintenance from 26.05.2011 to 25.05.2015 for Rs.2500/- per month, with effective from 25.05.2015 to 27.11.2017. Rs.3000/- per month from 27.11.2017 till such time, the Revision Petitioner gets remarried. The said order of the learned Judge was found reasonable and therefore the revision filed by the Wife seeking further enhancement was dismissed.

13. The case before this court, Crl.R.C.No.1150 of 2019 and Crl.R.C.No.1348 of 2019 is different. The Husband is employed as an Officer in Life Insurance Corporation. At the time of marriage he was a



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

Junior Assistant. Therefore by the timely promotion and change of salary, the Petitioner Wife claims that the Husband is receiving Rs.70,000/- per month.

14. The husband who is the Revision Petitioner in Crl.R.C.No.1150 of 2019 had filed typed set in which his salary for the month of June 2014 is given as net salary of Rs.19,442/-. Even though the Petitioner in M.P.No.189 of 2018 in M.C.No.356 of 2006 sought enhancement of maintenance amount from Rs.2,000/- as ordered on 11.09.2017 in M.C.No.356 of 2006 by seeking Rs.15,000/- per month for 3 Petitioners, the wife and the minor children, the learned Judge had granted enhancement amount from Rs.2000/- per month to Rs.7000/- per month. Thereby, for wife and 2 minor children it was ordered as $\text{Rs.7,000} \times 3 = \text{Rs.21,000/-}$. Aggrieved by the same, the Wife had filed this Revision Petition seeking further enhancement.

15. The submission of the learned Counsel for the Revision Petitioner (Husband) in Crl.R.C.No.1150 of 2019 that the daughter is not entitled to maintenance on attaining the age of majority is not accepted by this Court,



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

WEB COPY

in the light of the reported decision of the Hon'ble Supreme Court, wherein it was stated that the daughter is entitled to maintenance even after attaining the age of majority, till the daughter is married. Therefore the Revision Petitioner (Husband) in Crl.R.C.No.1150 of 2019 is directed to pay enhanced maintenance from the date of the petition (2006) Rs.2000/- per Petitioner. 3 X Rs.6000/- in the year 2006 which was subsequently enhanced in the year 2019 as Rs.7000/- each instead of Rs.15,000/- each.

16. The Petition filed by the Wife in Crl.R.C.No.1348 of 2019 is allowed thereby enhancing it as Rs.7000/- ordered by the learned I Additional Principal Judge, Family Court, Chennai in M.P.No.189 of 2018 in M.C.No.356 of 2006. It is ordered as Rs.10,000/- from the date of filing of the Petition in M.P.No.189 of 2018. After verification, regarding the salary for the staff of the LIC, particularly, the Petitioner in Crl.R.C.No.1150 of 2019 who is stated to be Assistant Administrative Officer, promoted as ASS, the Salary certificate enclosed in the typed set is with regard to the Typist Cadre as on June 2014. The Revision Petitioner had not furnished the salary particulars for the relevant period 2018 and the post held by him in 2018.



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

WEB COPY

17. The submission of the learned Counsel for the Revision Petitioner (Husband) in Crl.R.C.No.1150 of 2019 that he has left matrimonial home which was constructed by him by the loan availed from LIC Housing Corporation is appreciated and in the evidence he had clearly stated that R.W-1 in M.P.No.189 of 2018 in M.C.No.356 of 2006 had stated that the day he left the matrimonial home till the date of filing of the M.C.No.356 of 2006, he had not spent for his family members. There is clear admission and under those circumstances, he is duty bound to pay maintenance as was ordered by the Court. Further in the cross examination, he had claimed ignorance regarding the amount required for the monthly expenses of a family consisting of a mother and two minor children including expenses for education, schooling etc. Under those circumstances, the enhancement by the learned Judge is assailed in this Crl.R.C.No.1150 of 2019, which is found unacceptable. When he had not furnished the salary particulars for the relevant period, the enhancement of amount as Rs.7000/- is found not as per the difficulties faced by the wife and the children. Therefore, the wife had come in Revision seeking further enhancement.



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

18. Instead of Rs.10,000/- each, the learned Judge has ordered Rs.7,000/- each. This Court, on the consideration of the facts and circumstances of the case, enhanced to Rs.10,000/- from the date of M.P.No.189 of 2018 in M.C.No.356 of 2006.

19. The reported decision cited in **CDJ 2022 DHC 488** is not applicable to the facts of the case, as the Husband had not furnished the details of the salary and the Wife is unable to get it, even after she filed petition under R.T.I. The husband is working in L.I.C, wherein he was a Junior Assistant at the time of marriage. Now, the minor child had attained the age of majority during the pendency of the Criminal Revision Case. At that time, when M.P.No.189 of 2018 in M.C.No.356 of 2006 was filed, the minor daughter and son were minors. In the evidence before the learned I Additional Principal Judge, Family Court, Chennai in the cross examination as R.W-1, the Respondent in Maintenance case, the Husband had admitted that he left the matrimonial home when his daughter was 3 ½ years old and the son was aged 8 months. Therefore at the time of maintenance case, the order of Rs.2,000/- per month would have been sufficient to him. When the Petitioner in Maintenance case, the Wife filed that what was ordered by the



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

learned I Additional Principal Judge, Family Court as Rs.2,000/- was not sufficient to her.

20. The Husband as Respondent filed salary certificate for the year 2014 before this Court in Criminal Revision Case as a typed set in which it is stated that the Husband is employed as Assistant Administrative Officer. The attempt of the wife to get pay particulars under R.T.I. Act, was not successful, even though, she filed application under the R.T.I. Act. Under those circumstances, the reported decision cited by the learned Counsel for the Revision Petitioner (Husband) in Crl.R.C.1150 of 2019 is found not helpful or applicable to the facts and circumstances of the case and hence rejected. The submission of the learned Counsel for the Petitioner in Crl.R.C.No.1348 of 2019 (wife) stating that the minor daughter cannot be denied maintenance even after attaining the age of majority on the ground that the Hon'ble Supreme Court had held that the unmarried daughter is entitled to maintenance till they get married is not explained in the reported decision.

21. On consideration of the rival submissions and on perusal of the



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

order passed by the learned Principal Judge as I Additional Principal Judge in M.P.No.189 of 2018 in M.C.No.356 of 2006 dated 29.07.2019, it is found that the learned Judge had given a reasonable order of Rs.7,000/- for the mother and two minor children. During the pendency of the Crl.R.C. The minor daughter has attained the age of majority. Also the learned Counsel for the Revision Petitioner in Crl.R.C.No.1348 of 2019 submitted that the daughter even though had attained the age of majority is entitled to claim maintenance.

22. In the counter filed before the trial Court, the Respondent as Husband had clearly stated that he had availed home loan from L.I.C and had put up construction in the house where the Petitioners are now residing. Therefore, he wanted to settle the residential building in favour of the Petitioner/wife. If the Petitioner/wife insist for enhancement, the Respondent/husband has to sell the property and settle the maintenance case in the order in M.P.No.189 of 2018 in M.C.No.356 of 2006. The learned Principal Judge, Family Court as I Additional Principal Judge, Family Court had stated that the Respondent/Husband had not furnished his salary particulars. He has furnished the salary particulars for the year 2017



CrI.R.C.Nos.1348 and 1150 of 2019 and
CrI.M.P.Nos.919 and 15451 of 2019

whereas the M.P was filed in the year 2018. The learned Principal Judge Family Court had not sought salary slip from the L.I.C authorities. Now in this Revision, this Court had sought salary details of the Husband vide order dated 24.11.2023 and the salary particulars was duly submitted in a sealed cover dated 07.12.2023 with the following salary particulars.

23. The salary particulars of Mr.P.Ganesh for the month of 11/2023.

<i>Name</i> : Mr.Ganesh P	<i>S.R.No.</i> : 501864
<i>Designation</i> : 1634	<i>Department</i> : 42
<i>PAN</i> : XXXXX25543H	<i>Bank A/S.No.</i> : XXX...856
	<i>Benefit Type.</i> : Pension Optee

<i>Earnings</i>	<i>Amount</i>	<i>Deductions</i>	<i>Amount</i>
<i>Basic Pay</i>	82095.00	<i>Provident Fund</i>	8732.00
<i>FPA</i>	2645.00	<i>Addl Prov Fund</i>	8000.00
<i>Cadre Spl.Allo</i>	3000.00	<i>Income Tax</i>	16700.00
<i>Tech.Exam Allow</i>	2575.00	<i>Ins Premium</i>	480.00
<i>DA</i>	48604.25	<i>Co-Op Bank</i>	800.00
<i>HRA</i>	7840.00	<i>Sports/Rec Club</i>	50.00
<i>CCA</i>	1555.00	<i>Mediclaime</i>	714.86
<i>Transport Allow</i>	680.00	<i>GSL I Term</i>	213.00
<i>Cad Loan Subsdy</i>	5172.13	<i>GSL I Saving</i>	527.00
		<i>GTIS'97 Risk Pr</i>	730.00



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

<i>Earnings</i>	<i>Amount</i>	<i>Deductions</i>	<i>Amount</i>
		<i>Prof Tax</i>	<i>208.30</i>
		<i>Optnl Mediclaim</i>	<i>924.83</i>
		<i>GIS Premium</i>	<i>2255.00</i>
		<i>HFL EMI</i>	<i>27612.00</i>
		<i>PF Loan-Principal (23/36)</i>	<i>19451.00</i>
		<i>PF Loan-Intr</i>	<i>2729.00</i>
		<i>Deepavali Adv (1/10)</i>	<i>4100.00</i>
		<i>SR A/C Credit</i>	<i>0.39</i>
<i>Gross Earnings</i>	<i>154166.38</i>	<i>Total Deductions</i>	<i>94,227.38</i>
		<i>Net Salary</i>	<i>59,939.00</i>

24. Net pay after deductions arrived at Rs.59,939/-. Therefore, out of Rs.59,939/-, a sum of Rs.9,000/- was deducted towards payment of enhanced maintenance for all the three. The Husband as Respondent in the M.P had wantonly not furnished salary particulars. Therefore, the efforts of the wife to get the salary particulars under R.T.I Act was not successful. Therefore, this Court, by exercising its inherent power, had directed the Authorities of the Life Insurance Corporation to furnish salary particulars of the Respondent in Crl.R.C.No.1348 of 2019/Petitioner in Crl.R.C.No.1150 of 2019. On perusal of the salary particulars, it is found that after deduction,



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

the Respondent in the maintenance case, Respondent in the M.P and the Respondent before this Court in Crl.R.C.No.1348 of 2019, the husband is drawing a net salary of Rs.59,939/- after all deductions. In the deductions, it is found, he has availed Deepavali advance which throws evidence that he is not living with the family consisting of wife and two children. Rs.4,100/- is deducted as Deepavali advance and that has to be included for the benefit of the wife and children. Considering that he intends to settle the house in favour of the wife and children, for the present, the amount is increased only to Rs.10,000/- each for all three. If that is calculated, he has to pay from the date of filing of this Criminal Revision till the minor children attains the age of majority. Therefore, the Petitioner wife in Crl.R.C.No.1348 of 2019 is entitled to enhanced maintenance of Rs.10,000/- per month. The Petitioner in Crl.R.C.No.1150 of 2019 is the husband who is the Respondent in Crl.R.C.1348 of 2019, has to pay Rs.10,000/- per month from the date of passing of the order in the maintenance case till the date of attaining the age of majority by the children. Considering the present circumstances and social conditions, when the minors attain the age of majority, he/she has to seek employment and cannot be dependent on their father. Therefore, the order of enhancement for the minor children as per the Petitioner in M.P



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

WEB COPY

holds good until they attain the age of majority.

25. The Wife was aged about 55 years, the daughter was 17 years and the son was 15 years at the time of filing of this Criminal Revision. The Husband even though claimed that the wife was working as a Teacher, did not furnish the document regarding her salary. Also he contended that she was receiving rent, for that also, there is no evidence. Under those circumstances, the Respondent husband in Crl.R.C.No.1348 of 2019, the Petitioner in Crl.R.C.No.1150 of 2019 (Husband) is duty bound to maintain the children till they attain the age of majority, since the husband had been granted decree of divorce by the family Court. The daughter and the son are entitled to maintenance of Rs.10,000/- per month from the date of the order (29.07.2019).

26. Considering the status that the Petitioner in Crl.R.C.No.1348 of 2019, wife was divorced and Petitioner in Crl.R.C.No.1150 of 2019, the husband was granted divorce, the minor children are entitled to seek maintenance only till they attain the age of majority.



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

27. As per the submission of the learned Counsel for the Revision Petitioner, the Husband in Crl.R.C.No.1150 of 2019, the Husband is working as Assistant Administration Officer in Life Insurance Corporation, Chennai. From the website of L.I.C, it is found that the salary of Assistant Administrative Officer is Rs.1,55,203/- per month. Therefore, the learned Counsel for the Wife/Petitioner in Crl.R.C.No.1348 of 2019 submitted that as per the website, Rs.1,55,203/- is drawn by the Petitioner in Crl.R.C.No.1150 of 2019. Therefore, the petition is to be set aside. The enhancement of Rs.7,000/- fixed by the learned I Additional Principal Judge, Family Court in M.P.No.189 of 2018 in M.C.No.356 of 2006 has to be dismissed.

28. The husband during the course of evidence had claimed that he does not know the monthly expenses borne by the wife for maintenance and education expenses of a family consisting of wife and two children. Under those circumstances, the enhancement from Rs.2,000/- that was ordered in maintenance case at the earliest point of time was sought to be enhanced in the light of the document furnished for the year 2017 as the salary certificate, the learned Principal Judge, Family Court had ordered Rs.7,000/-



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

thereby increasing the maintenance from Rs.2000/- to Rs.7,000/- per month.

When the wife had sought Rs.15,000/- each, the learned I Additional Judge had granted only Rs.7,000/- each. Since wife was not satisfied, she had preferred revision seeking further enhancement in Crl.R.C.No.1348 of 2019. The Husband also filed Crl.R.C.No.1150 of 2019 seeking to set aside the enhancement already ordered. When the husband was suppressing the salary details before the Family Court, the attempt of the wife to get salary details of the Husband by filing an application under R.T.I was not successful. Under those circumstances, this Court exercised its power to address the Life Insurance Corporation authorities seeking salary particulars.

29. Under those circumstances, instead of Rs.7,000/-, each of the Petitioners are granted Rs.10,000/- each to the wife and children from the date of the order. (date of the order in M.P.No.189 of 2018 in M.C.No.356 of 2006 dated 29.07.2019). Also the order of the learned Principal Judge Family Court holding Full Additional charge as I Additional Family Court, Chennai that the children are entitled till they attain the age of majority. As per the report received from the LIC of India regarding salary details of



CrI.R.C.Nos.1348 and 1150 of 2019 and
CrI.M.P.Nos.919 and 15451 of 2019

P.Ganesh, Assistant Development Officer, are as follows:-

WEB COPY

<i>Name</i> : Mr.Ganesh P	<i>S.R.No.</i> : 501864
<i>Designation</i> : 1634	<i>Department</i> : 42
<i>PAN</i> : XXXXX25543H	<i>Bank A/S.No.</i> : XXX...856
	<i>Benefit Type.</i> : Pension Optee

<i>Earnings</i>	<i>Amount</i>	<i>Deductions</i>	<i>Amount</i>
<i>Basic Pay</i>	82095.00	<i>Provident Fund</i>	8732.00
<i>FPA</i>	2645.00	<i>Addl Prov Fund</i>	8000.00
<i>Cadre Spl.Allo</i>	3000.00	<i>Income Tax</i>	16700.00
<i>Tech.Exam Allow</i>	2575.00	<i>Ins Premium</i>	480.00
<i>DA</i>	48604.25	<i>Co-Op Bank</i>	800.00
<i>HRA</i>	7840.00	<i>Sports/Rec Club</i>	50.00
<i>CCA</i>	1555.00	<i>Mediclaime</i>	714.86
<i>Transport Allow</i>	680.00	<i>GSL I Term</i>	213.00
<i>Cad Loan Subsdv</i>	5172.13	<i>GSL I Saving</i>	527.00
		<i>GTIS'97 Risk Pr</i>	730.00
		<i>Prof Tax</i>	208.30
		<i>Optnl Mediclaime</i>	924.83
		<i>GIS Premium</i>	2255.00
		<i>HFL EMI</i>	27612.00
		<i>PF Loan-Principal (23/36)</i>	19451.00
		<i>PF Loan-Intr</i>	2729.00
		<i>Deepavali Adv (1/10)</i>	4100.00
		<i>SR A/C Credit</i>	0.39
<i>Gross Earnings</i>	154166.38	<i>Total Deductions</i>	94,227.38
		<i>Net Salary</i>	59,939.00



WEB COPY

30. After deductions, the net salary is Rs.59,939/-. As per the earlier decisions of the Hon'ble Supreme Court regarding maintenance and the methods adopted by the husband to delay or deny the maintenance, it is observed by the Hon'ble Supreme Court that wantonly they availed loan so that the net salary or the take home salary is meagre amount. Here in this case, he had availed PF loan, for which he has been paying Rs.19,451/- per month towards principal and Rs.2,729/- per month towards interest and Rs.4,100/- per month towards repayment of Deepavali Advance, totally Rs.26,280/- per month. The said amount has to be included in the net salary. He had availed housing loan for which Rs.27,612/- per month has been paid as Equated Monthly Instalment. The house is now transferred in the name of his wife. Therefore, that is no included. Also, the interest for the PF loan also is to reduced.

31. In short, out of Rs.59,939/-, after paying Rs.7,000/- each to the minor children and Rs.16,000/- to his wife, the remaining balance amount of Rs.29,939/- is with him. Therefore, the award of enhanced maintenance of Rs.7,000/- each to the children, ordered by the learned Principal Judge



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

Family Court holding Full Additional charge as I Additional Family Court, Chennai, is confirmed. The wife is entitled to Rs.16,000/- instead of Rs.10,000/-.

32. The learned I Additional Principal Judge in Page 9 of his judgment had clearly stated that the maintenance amount shall be paid to the minor children till they attain the age of majority and are as follows;

“In the result, this petition is partly allowed and the maintenance payable by the Respondent to the Petitioners is enhanced from Rs.2,000/- pm to Rs.7,000/- pm each totalling to Rs.21,000/- pm from 01.03.2018. The Respondent shall pay the enhanced maintenance on or before 5th of every succeeding English calendar month. The total arrears of enhanced maintenance at the rate of Rs.15,000/- pm (Rs.21,000/- less Rs.6,000/-) for Petitioners as on 31.07.2019 works out to Rs.2,55,000/- and shall be settled by the Respondent within two months from today with regard to the 2nd and 3rd Petitioner, the enhanced maintenance amount shall be paid till the minor children attain majority.

33. After the children attained the age of majority, the enhancement is only for the mother. The enhancement ordered by the learned Judge Family Court is upheld as far as the minor children are concerned. The maintenance for the mother is enhanced from Rs.7000/- to Rs.16,000/-. Instead of Rs.10,000/-, the wife is entitled to Rs.16,000/-. The enhanced amount is to be paid from 29.07.2019 i.e., the date of order passed in



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

M.P.No.189 of 2018 in M.C.No.356 of 2006.

WEB COPY

34. The minor children are entitled to Rs.7,000/- is found reasonable. The amount for the mother is enhanced from Rs.7,000 to Rs.16,000/- from the date of the order. As far as this enhancement amount, the minors are entitled from the date of the order till they attain the age of majority.

35. The facts of the reported ruling in the case of ***Jyoti @ Gayatri -vs- Rohit Sharma @ Santosh Sharma*** reported in ***CDJ 2022 DHC 488*** in which the wife sought maintenance. The maintenance paid was Rs.2,000/-. Subsequently she sought enhancement of maintenance. It was enhanced to Rs.2,500/-. Again she filed enhancement by which time it was enhanced to Rs.3,000/-. Aggrieved by the same, the wife preferred Criminal Revision. It is the contention of the wife that the Husband is employed as In-charge in Guru Bhog Mill, Lawrence Road, Delhi and drawing salary of Rs.82,000/- per month. Therefore she claimed Rs.35,000/- per month. Also it was stated that the husband family demanded Rs.10,00,000/- from the wife as dowry for starting their business and harassed her, therefore, she was living alone with her child. Husband contended that he lives in a rented house and he is



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

not drawing salary as claimed by the wife in the course of the enquiry before the trial Court. The wife was unable to prove the income of the husband to claim Rs.35,000/- as maintenance. The Court on the basis of presumption arrived at conclusion that the Husband was drawing Rs.15,000 to Rs.20,000 per month and had ordered Rs.5,000/-. Therefore, the trial Court had granted Rs.3,000/- per month as there was no proof of income. The order passed by the trial Court upheld upto the stage of the High Court and the Revision case was dismissed.

36. Here the facts in this case of the Petitioner in Crl.R.C.No.1348 of 2019, the facts are different. After the divorce, the husband neglected to maintain wife and two children. By the time he left the matrimonial home, the second child was hardly 8 months old. In the course of the evidence, it is stated that the husband had obtained divorce on the ground that the conduct of the wife has become unbearable. The Petitioner, wife filed for the restitution of conjugal rights. The petition filed by the husband seeking for divorce was granted. In divorce petition, as one time settlement, he had settled the house built by him after availing loan from L.I.C. In the course of evidence, he admitted that the house site was purchased by selling the



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

jewels of the wife. Also claimed that he does not know the monthly expenses for maintaining a family consisting of wife and two children including their education expenses. He also admitted that he was employed as Junior Assistant at the time when he was married. The Revision Petitioner in Crl.R.C.No.1150 of 2019, is now serving as Assistant Development Officer in L.I.C. The attempt of the wife seeking enhancement on the ground that he is serving as Assistant Development Officer. Therefore he is earning more than one lakh per month. In these circumstances, she sought enhancement. The Husband had not filed any document to show that he has less income. The attempt of the Wife to obtain salary details through the R.T.I Act was rejected by Life Insurance Corporation. The appeal filed by the wife seeking details of Pay particulars of the Husband was also unsuccessful. Under those circumstances, the facts of the reported decision will not help the husband, the Petitioner in Crl.R.C.No.1150 of 2019 seeking to set aside the order of enhancement of maintenance. Therefore the reliance placed by the learned Counsel for the husband, Petitioner in Crl.R.C.No.1150 of 2019 in **CDJ 2022 DHC 488** is rejected.

37. The reported decision cited by the learned Counsel for the



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

WEB COPY

Petitioner in Crl.R.C.No.1348 of 2019 with regard to the minor children is accepted. Enhancement ordered by the learned Judge, Family Court regarding minors is accepted as such further enhancement is not granted in the light of the order in the case of *Nitaben Dineshkumar Oza -vs- DineshKumar Ishwarlal Oza and others* reported in **CDJ 2016 GHC 092**.

38. The Crl.R.C.No.1150 of 2019 seeking to set aside the enhancement ordered for all the three petitions in M.P.No.189 of 2018 in M.C.No.356 of 2006 is dismissed in the light of the order passed in Crl.R.C.No.1348 of 2019. The reliance placed by the learned Counsel for the Petitioner in **CDJ 2016 GHC 092** is considered only regarding further enhancement regarding minor children in Crl.R.C.No.1348 of 2019. Therefore, Crl.R.C.No.1348 of 2019 is partly allowed thereby granting enhancement of maintenance only to the Wife (1st Petitioner) and minor daughter (2nd Petitioner) and order passed by the learned I Additional Principal Judge, Family Court in M.P.No.189 of 2018 in M.C.No.356 of 2006 dated 29.07.2019 is confirmed as far as minor son is concerned. The claim of the enhancement by the wife is accepted.



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

WEB COPY

In the result, **Crl.R.C.No.1348 of 2019 is partly allowed** thereby granting maintenance to the wife and the minor daughter is also entitled to maintenance even after age of majority as per the reported decisions of the Hon'ble Supreme Court which was relied by the learned Judge of the Gujarat High Court, as he then was. Therefore, the order of the learned I Additional Principal Judge, Family Court, Chennai, granting enhanced maintenance is confirmed regarding the wife and minor daughter. The minor daughter is entitled to maintenance even after the age of majority till she is married. The order granting maintenance to the minor son till he attains the age of majority is confirmed. **Crl.R.C.No.1150 of 2019 is dismissed** in the light of the order in **CDJ 2016 GHC 092**. Consequently connected miscellaneous petitions are closed.

02.08.2024

shl

Index : Yes/No

Speaking/Non-speaking order

To

The First Additional Principal Judge,
Family Court, Chennai.



WEB COPY



Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 and 15451 of 2019

SATHI KUMAR SUKUMARA KURUP, J.,

shl/srm

**Order made in
Crl.R.C.Nos.1348 and 1150 of 2019 and
Crl.M.P.Nos.919 of 2020 and 15451 of 2019**

02.08.2024