

Criminal Revision No.1474/2010

28.02.2014

Shri D.K. Tiwari, counsel for the applicant.

Heard on admission.

The applicant has preferred the present revision against the order dated 16.8.2010 passed by the learned Principal Judge, Family Court, Jabalpur in M.J.C. No.22/09, whereby the maintenance under Section 127 of the Cr.P.C. was enhanced for the ₹2,000/- per month only, whereas the applicant demanded for enhancement upto ₹7,000/-

The facts of the case in short are that the applicant was getting the maintenance of ₹1,000/- vide order dated 30.1.2004. The applicant moved an application under Section 127 of the Cr.P.C. that the respondent was earning a sum of ₹25,000/- per month and therefore, she is entitled for the more amount of maintenance but the respondent denied the claim of the respondent.

After considering the evidence adduced by both the parties, the learned Principal Judge enhanced the maintenance of the applicant from the sum of ₹1,000/- to the ₹2,000/-.

After considering the submissions made by learned counsel for the applicant and the evidence laid before the trial Court, it appears that the applicant and the respondent examined themselves only. No

additional witness was examined by them nor any document was filed. The respondent has submitted that his basic salary of ₹9,500/- and odd. No salary slip was filed by the applicant. On the contrary, it is apparent that the applicant is residing with her son. She did not give any information as to whether her son was employed or not and in which house, she was residing. The respondent alleged that the applicant is getting the maintenance from her son, who is major and also getting the rent from various houses. Under such circumstances, the maintenance is to be granted on the basis of dependency of the applicant and income of the respondent. When the applicant was getting the maintenance from her son then, a partial responsibility is remained upon the respondent and therefore, if the trial Court has increased a sum of ₹1,000/- to the sum of ₹2,000/- then, such increase appears to be judicious. Only, on the basis of income of the respondent, the maintenance cannot be increased in an excessive manner.

The entire matter depends upon the factual position. There is no illegality or perversity visible in the impugned order passed by the trial Court. In absence of any legal mistake, the revision filed by the applicant cannot be entertained because for acceptance

of the revision, there should be some illegality in the impugned order passed by the trial Court.

There is no basis to accept the present revision. Consequently, the present revision filed by the applicant namely **Smt. Chhoti Bai** is hereby dismissed at motion stage.

Copy of the order be sent to the trial Court for information alongwith its record.

(N.K. GUPTA)
JUDGE

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