



2026:CGHC:3968



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 201 of 2023

1. Smt. Usha Jayswal W/o Shri Sharda Prasad Jayswal, Aged About 57 Years R/o. Sardar Patel Ward Mungeli, Thana, Tahsil And District - Mungeli Chhattisgarh
2. Ku. Aiesha Jayswal D/o Shri Sharda Prasad Jayswal, Aged About 24 Years R/o. Sardar Patel Ward Mungeli, Thana, Tahsil and District - Mungeli Chhattisgarh

... Applicants

versus

Sharda Prasad Jayswal S/o Shri Chhotelal Jayswal, Aged About 60 Years
R/o Ambedkar Bhawan Balco Nagar Korba, At Present Primary School
Saraipali, District - Korba Chhattisgarh

... Respondent

For Applicants	: Mr. Sunil Sahu, Advocate.
For Respondent	: Ms. Laxmeen Kashyap, Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Order on Board

22.01.2026

1. This criminal revision has been filed by the applicants being aggrieved with the impugned order dated 13.01.2023 passed by the learned Sessions Judge Mungeli, District - Mungeli (C.G.) in Criminal Revision No.19/2022, arising out of order dated 29.03.2022 passed in Misc. Criminal Case No. 80/2017 passed by learned Judicial Magistrate First Class, Mungeli (C.G.).
2. The brief facts of the case is that it is an admitted position that the



applicants are the wife and daughter of the respondent. The respondent-husband is working as a Teacher (Head Master) in the School Education Department and is receiving a salary of approximately Rs. 63,000/- per month. The application filed by the applicants along with another daughter, namely Eshuka Jayswal, was allowed vide order dated 21.05.2019, whereby maintenance of Rs. 1,100/-, Rs. 800/-, and Rs. 800/- respectively was awarded. The said amount became insufficient in view of the rise in prices of essential commodities and the educational expenses of the daughters. Therefore, an application under Section 127 of the Cr.P.C. was filed on 05.12.2017 seeking enhancement of maintenance from Rs. 2,700/- per month to Rs. 30,000/- per month. The respondent appeared before the trial court after service of notice and filed a reply denying that he was earning Rs. 63,000/- per month. It was further stated that a sum of Rs. 12,000/- had been awarded under the Domestic Violence Act by the learned JMFC and that he was paying a total amount of Rs. 14,700/- per month to the applicants. On these grounds, he prayed for dismissal of the application for enhancement of maintenance.

3. The learned trial Court recorded the evidence and, after appreciating the oral and documentary evidence, held that daughter Eshuka Jayswal had attained the age of majority on the date of filing of the application and, therefore, was not entitled to maintenance. It was further held that the earlier maintenance of Rs. 2,700/- had been awarded in the year 2009 when the respondent's salary was Rs. 16,780/-, whereas his present gross salary is Rs. 77,108/- per month, as per document Ex. P-2. Accordingly, vide order dated 29.03.2022, the learned trial Court directed the respondent to pay Rs. 10,000/- per month to applicant No. 1 and Rs. 5,000/- per month to applicant No. 2, totaling Rs. 15,000/- per month. The learned trial court also considered the fact that applicant No. 2 is



physically handicapped. Evidence in this regard was produced by the applicants, and in paragraph 12 of the judgment, it was recorded that petitioner No. 2 is 70% physically handicapped as per the certificate issued by the Medical Board, Mungeli, and is unable to walk without assistance and is wholly dependent upon her mother. The respondent thereafter filed a revision petition before the Court of Sessions. The learned Sessions Judge, without considering the respondent's salary of Rs. 77,000/- per month and without properly appreciating the evidence on record, and while relying upon the judgment in Virendra Kumar Tiwari v. Neetu Tiwari dated 07.12.2022 passed in Cr.M.P. No. 1216/2022, set aside the maintenance awarded to petitioner No. 2 and partly allowed the revision vide the impugned order dated 13.01.2023. The said order is contrary to the law laid down by the Hon'ble Supreme Court in Rajnesh v. Neha, reported in (2021) 2 SCC 384. A certified copy of the impugned order dated 13.01.2023 is filed and marked as Annexure A-1. Hence, the present revision.

4. Learned counsel appearing for the applicant submits that the learned Family Court erred in passing the impugned order by rejecting the application of applicant No. 2 and setting aside the maintenance awarded to her, despite the fact that she is a 70% physically handicapped girl. The said fact was specifically pleaded and duly proved by evidence on record, and the respondent was fully aware of the disability of applicant No. 2. The learned Sessions Judge failed to appreciate the settled legal position governing maintenance cases and, while relying upon the judgment in Virendra Tiwari, passed the impugned order even though the facts of the present case are entirely different. In the present case, applicant No. 2 is disabled and wholly dependent upon her mother for her day-to-day activities. The learned Family Court failed to consider that the evidence on



record clearly establishes that applicant No. 1 was ousted from the matrimonial home by the respondent and that she has no source of income to maintain herself. The findings recorded by the learned revisional Court are perverse, arbitrary, and contrary to the material available on record, and therefore deserve to be set aside. The learned Sessions Judge failed to consider that the earlier maintenance order dated 21.05.2019 was passed when the respondent's salary was approximately Rs. 16,700/- per month, whereas after about 11 years, his salary has increased more than five fold. As per salary slip Ex. P-2, his present gross salary is Rs. 77,000/- per month. The enhancement of maintenance by the trial Court, after a lapse of 11 years, was justified in view of the present circumstances and the rising cost of living. The learned Sessions Court, without considering the income of the respondent and without appreciating the fact that he has sufficient means and is legally bound to maintain his wife and daughter, passed the impugned order, which is liable to be set aside. The learned Sessions Judge failed to consider the law laid down by the Hon'ble Supreme Court in *Rajnesh v. Neha* and also failed to appreciate that the applicants are entitled to live in the same standard of living as maintained by the respondent, who is working as a Head Master.

5. On the other hand, learned counsel for the respondent/husband opposes the submissions made by the learned counsel for the applicant and submits that the Family Court after considering all the documents and evidence adduced by the parties has passed the order, in which no interference is called for.
6. I have heard learned counsel for the parties, perused the impugned order, pleadings and documents appended thereto.
7. Considering the submissions advanced by the learned counsel for the



parties, and from the perusal of the impugned order passed by the learned Family Court, it transpires that after hearing all the statements of the witnesses and perusing the evidence available on record, the learned Family Court has passed the impugned order, and there is no any illegality and infirmity while passing the same which requires interference by this Court.

8. Accordingly, the present revision, being devoid of merit, is liable to be and is hereby **dismissed**.
9. Let the certified of the this order as well as original record be transmitted to the concerned trial Court for necessary compliance and follow up action, if any.

Sd/-
(Ramesh Sinha)
Chief Justice

Preeti