

IN THE HIGH COURT OF JHARKHAND, RANCHI
Cr. Revision No. 782 of 2025

Gorakh Nath Dubey aged about 71 years, son of late Ambika Dubey,
resident of Village Purabdiha, PO Purabdiha, PS Chainpur, District
Palamau Petitioner(s)

-- Versus --

1.The State of Jharkhand
2.Sunaina Devi, wife of Sri Gorakh Nath Dubey, resident of Village
Purabdiha, PO Purabdiha, PS Chainpur, District Palamau

..... Opp. Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner(s)	:-	Mr. Manoj Kumar No.2, Advocate
For the State	:-	Mr. Suraj Deo Munda, Advocate

2/17.09.2025 Heard the learned counsel appearing on behalf of the petitioner as

well as the learned counsel appearing on behalf of the respondent State.

2. This criminal revision petition has been filed against the order dated 20.06.2025 passed by learned Principal Judge, Family Court, Palamau at Daltonganj, in Maintenance Alteration Case No.03 of 2023 whereby the learned court has been pleased to allow the petition under section 127 Cr.P.C filed by the Opposite Party for enhancement of maintenance amount of Rs.2500/- to Rs.5000/- per month in favour of the O.P.No.2 who happened to be wife.

3. Learned counsel for the petitioner submits that earlier a petition under section 125 Cr.P.C has been filed by the O.P.No.2 and in that case on the basis of the compromise Rs.2500/- per month was fixed as maintenance to the O.P.No.2 and that was being paid by the petitioner. He submits that now the present petition has been filed under section 127 Cr.PC by the wife stating that earlier the O.P.No.2 has filed Maintenance Case No.22 of 2006 against the petitioner in the court of

learned Chief Judicial Magistrate, Palamau which was transferred to the court of learned Sub-Divisional Judicial Magistrate, Palamau which was decided on 10.10.2007 on the basis of the compromise and the petitioner was directed to pay Rs.2500/- per month to O.P.No.2 for maintenance. He submits that in the petition it has been stated that now she is unable to maintain herself from the aforesaid maintenance allowance as the rate of everything has been increased since 2007 to 2022. It has been stated by the wife that the petitioner has got no other liability and his monthly pension is about Rs.46,000/- and in the changed circumstance, the O.P.No.2-wife has filed the petition for enhancement of monthly maintenance at least to the tune of Rs.20,000/- per month.

4. Learned counsel for the petitioner submits that the petitioner is having other liability and in view of that, the learned court without considering that aspect of the matter has enhanced the amount to the tune of Rs.5,000/-. He submits that there is no changed circumstances and in view of that section 127 Cr.PC is not applicable.

5. Learned counsel for the respondent State has opposed the prayer and submits that the learned court has found the changed circumstance and in view of that, the said order has been passed and there is no illegality in the impugned order.

6. From the impugned order, it transpires that the learned court has appreciated the evidences of PWs as well as of OPWs. O.P.No.2 has been examined as PW1, PW2- Kiran Tiwari who happened to be daughter, PW3 is brother of the OP No.2. PW1 has stated before the learned court that her husband draws pension of Rs.46,000/- per month and she is residing

along with another relative as her husband has ousted her from his house. One house was allowed in her name but her husband did not allow to construct it and lodged case under section 144 Cr.PC. She has further stated that she has no source of income and with Rs.2500/- it is not possible to pull the life smoothly. She has claimed Rs.20,000/- under the changed circumstance. In the same line, PW2 and PW3 have stated. OPW-2-Rajendra Dubey has deposed in his examination in chief that the petitioner Sunaina Devi is step mother and Kiran Devi is step sister. He has admitted that Rs.2500/- per month is being paid by the petitioner to O.P.No.2. Daughter in law -Urmila Devi who has been examined as OPW-3 has also admitted the fact that the O.P.No.2 is her second mother-in-law. She has also admitted that Rs.2500/- is being paid and considering all these aspects, the learned Family Court Judge has found that there is changed circumstance. The petitioner has filed the petition before the learned court of assets and liability and has disclosed that he is VIIIth Pass and he lived in parental home at Village Kurbiddha, his date of marriage is 17.06.1994 and date of separation is 10.10.2007 and his monthly expenses is Rs.15,500/-. He also gives Rs.2500/- per month to the O.P.No.2 as per the order of Miscellaneous Case No.22 of 2006. He has also stated that he has a second wife namely, Malti Devi and he is spending Rs.10,948/- per month on the dependent second wife. He further stated that he has one son Rajendra Dubey who is aged about 42 years and he is employed and he is having grand sons and grand daughters and dependents on Rs.16,226/- per month of Kusum Kumari, Rs.19725/- per year on Nitu Kumari, Rs.19,529/- per year and

Rs.22,280/- per year on Raj Kumar Dubey and Rohit Kumar respectively for their food, clothing and education. He has admitted that he has retired as Sub Inspector from the Bihar Police department and gets pension of Rs.40,000/- per month. He stated that he spends Rs.76,700/- per year in LIC premium and he has taken vehicle loan and paying Rs.11000/- per month and he has stated further that O.P.no.2 is getting pension of Rs.1000/- month from the government and she also gets 10 kg ration per month through ration card. In view of the above, the learned court has found that there are changed circumstances and Rs.2500/- is being paid. In light of section 127 Cr.PC the same is required to be considered of both wife and husband's monetary benefit and expenses can safely be said to be the changed circumstance.

7. A dignified life after separation is a right not a handout. The retirement is no shield for an estranged spouse to evade responsibility. The maintenance is not charity but a legal right aimed at preserving the dignity and lifestyle akin to that enjoyed during the marriage, with due consideration to inflation and evolving social standards.

8. The expression 'change in the circumstances' ordinarily implies a change in the material circumstances of the party, his property or otherwise, the increase or decrease of his liabilities and so forth. The 'change in the circumstances' means change in the existence of circumstances of the party paying or receiving the allowance, which would justify an increase or decrease of the amount of the monthly payment originally fixed. The 'circumstances' contemplated must include financial circumstances, and in that view, the inquiry as to the change of

circumstances must extend to a change of financial circumstances of the wife. The Court has to find out as to what is required by the wife to maintain a standard of living which is neither luxurious nor penurious, but is modestly consistent with the status of the family. The growth of the child, or the birth of another child, or the death of a child is a change in the circumstances. The rise in the cost of living is such a change. The advance in age of the child is a fact that the children are grown up and are no longer unable to maintain themselves amounts to a change in the circumstances. The change of circumstance as envisaged in Section 127 Cr.P.C. contemplates not only change in relation to wife, but also the husband opposite party. When the husband begins to earn more the wife can apply under Section 127(1) Cr.P.C. for increasing the rate of maintenance. Similarly, when the wife begins to earn, the husband can approach the Magistrate under Section 127(1) Cr.P.C. for reducing the amount of maintenance. In light of the above, only factor under the said Section is to find out what are the change in the circumstances.

9. After the retirement, the petitioner is getting Rs.40,000/- per month pension and earlier he was paying Rs.2500/- per month and the learned court has only enhanced it from Rs.2500/- totaling to Rs.5000/-. There is no illegality in the impugned order. As such, this petition, is hereby, dismissed.

10. Pending petition if any also stands disposed of accordingly.

(Sanjay Kumar Dwivedi, J.)

Dated: 17th Sept., 2025
SI/ A.F.R.