
(2015) 06 MP CK 0038

Madhya Pradesh High Court (Indore Bench)

Case No: Criminal Revision No. 751 of 2014

Mohammad Jakir

APPELLANT

Vs

Ruksana and Others

RESPONDENT

Date of Decision: June 15, 2015

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 125(2), 127

Citation: (2015) 3 MPHT 391

Hon'ble Judges: Alok Verma, J

Bench: Single Bench

Advocate: M.M. Joshi, for the Appellant; Shahid Sheikh, Advocates for the Respondent

Final Decision: Disposed off

Judgement

Alok Verma, J

This criminal revision is directed against the order passed by learned Principal Judge, Family Court, Dewas in Miscellaneous Case No. 51/2014 vide order dated 30-5-2014 under Section 127 of Cr.P.C. by which learned Principal Judge partly allowed the application filed by the respondent No. 1 under Section 127 of Cr.P.C. and enhanced the amount of maintenance in respect of respondent No. 1 from Rs. 2000 to Rs. 5000/- and for respondent No. 2, from Rs. 1000/- to Rs. 4000/-. It is admitted that respondent No. 1 is married wife of applicant. Their marriage was performed according to Muslim Customs and Rites. Respondent No. 2 is the son of present applicant out of the marriage. It is also admitted that learned JMFC, Dewas passed an order in MJC No. 139/2009 on 31-12-2011 and awarded maintenance of Rs. 2000/- to respondent No. 1 and Rs. 1000/- to respondent No. 2.

2. By the impugned order, learned Principal Judge enhanced the amount as aforesaid on the premise that present applicant is working as Trackman in Ratlam Division of Indian Railway and his salary is approximately Rs. 16,000/-. It is also observed in the order by the learned Judge that there is price rise and inflation after the order passed by learned

JMFC. His salary has been increased to Rs. 12,699/- to Rs. 18,599/- and his dearness allowance is also increased to more than 100%.

3. Before learned Principal Judge, respondent No. 2 prayed that she may be granted monthly maintenance of Rs. 11,000/-.

4. Counsel for the applicant opposed that application on the ground that present applicant has to maintain his parents and also his second wife and children and, therefore, increase in the maintenance allowance from the date of application should be set aside and original amount of maintenance be maintained.

5. However, taking all the facts and circumstances of the case into consideration, it is apparent that there has been increase in the cost of living. There is also increase in the school fee of children and taking all these factors into consideration and also the income of the present applicant, in the considered opinion of this Court, increase in maintenance amount by the learned Principal Judge appears to be slightly on higher side. Therefore, the amount of maintenance awarded to respondent No. 1 is reduced from Rs. 5,000/- to Rs. 4,000/- and maintenance allowance awarded to respondent No. 2 is reduced from Rs. 4,000/- to Rs. 3,000/-.

6. Counsel for the applicant also submitted that the amount was awarded by the Court from the date of filing of the application, i.e., 25-4-2013, which he says, should be awarded from the date of order, however, looking to the provision of Section 125(2) of Cr.P.C., learned Principal Judge is empowered to order payment of maintenance from the date of application. In this regard, maintenance was already awarded earlier and this is only enhancement of the maintenance and, therefore, no interference is required in this part of the order. With these observations and modification in the impinged order, the criminal revision stands disposed of.

C.c. as per rules.