

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-20750 of 2015

Date of Decision: December 22, 2015

Nirmala Devi

...Petitioner

Versus

Roop Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Amninder Preet Singh, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

This is a petition under Section 482 Cr.P.C. filed by the unfortunate wife-Nirmala Devi, after being unsuccessful twice, wherein she has challenged the orders dated 12.05.2014 Annexure P/1 of the learned Sub-Divisional Judicial Magistrate, Phagwara as well as order dated 10.02.2015 Annexure P/2 passed by learned Sessions Judge, Kapurthala on her revision, declining her prayer, whereby, the petitioner had sought enhancement of compensation in terms of Section 127 Cr.P.C. which was earlier awarded to her @ ₹400/- per month on the orders dated 16.11.2002.

Upon hearing learned counsel for the petitioner. Case of the petitioner is that she was married to respondent-Roop Lal on 11.06.1983, out of which no child could be born and, thereafter, the husband left her company to settle abroad and has refused to maintain her and to undergo his obligation of a husband compelling her to invoke the jurisdiction of the Court, whereby, she was awarded ₹400/- per month as maintenance vide order dated 16.11.2002. The husband

inspite of service has failed to put in appearance before the learned Sub-Divisional Judicial Magistrate, Phagwara and was proceeded against ex-parte but subsequently in the revision before the learned Sessions Judge, Kapurthala has put in appearance reflects the fact that husband as well as his counsel are fully aware of the proceedings and in order to thwart the expeditious disposal of the matter has sought to evade his appearance before the Court which has led to being proceeded ex-parte by this Court as well. Wife in her deposition has testified as PW1 by means of Ex.PW1/A wherein she has claimed that due to escalation of the cost of living and rise in the prices of essential commodities she was unable to make both the ends meet as ₹400/- was a meagre amount. The petitioner is a grown up lady and has to run her household and having no income of her own is certainly totally dependent upon her husband. The husband as has also been held is an able bodied person and is residing abroad and it has come in the testimony of wife that he is earning ₹2,00,000/- per month while staying in England and which evidence has remained totally un rebutted. It is well settled position of law as has been contended on behalf of the petitioner that husband is under an obligation to maintain his wife in accordance with his status and earnings and cannot wriggle out of his obligation by virtue of this relationship. The amount earlier awarded to the tune of ₹400/- per month was more than one and a half decades ago and that with the change of economic scenario and that there has been acute escalation of the prices of the essential commodities and since there is no evidence to the effect that she owns any immovable property or has any source of income and keeping in view all these necessities of life the learned Court below though have taken into consideration earnings of husband to be ₹2,00,000/- per month but purely on the ground that there is no such evidence of its own as is reflected from the orders dated 12.5.2014 of

learned Sub-Divisional Judicial Magistrate, Phagwara has considered the earnings to be ₹6000/- per month of the husband which is even less than the minimum daily wages notified by the Government. Though, the learned revisional Court has assessed this earnings of the husband to be ₹15000/- per month and has awarded ₹5000/- per month by enhancing the same from ₹2500/- per month. However, having regard to the undisputed stand and unrebutted evidence of the wife the husband lives abroad in U.K. and, therefore, in view of the fact that he is educated and gainfully employed and having regard to the relative requirements of the wife at this juncture of life who has been left desolated and hapless to fend of her own and considering the very object of the provisions which is to prevent the vagaries and destituteness and being a enactment by way of social and economic upliftment of the women and needs to be given wider and liberal interpretation. Thus, in the totality of these facts and taking a pragmatic and realistic approach in view of the requirements of the wife for a roof over her head, three meal a day, clothing, medicines and other such requirements of life this Court considers that ₹10,000/- per month would be the most appropriate amount.

In view of the same the instant petition is allowed and the maintenance allowance under Section 125 Cr.P.C earlier allowed to tune of ₹400/- per month is enhanced to ₹10,000/- per month from the date of application under Section 127 Cr.P.C and the impugned orders are accordingly set aside and the petition allowed.

With these observations the present petition stands disposed off as allowed.

(FATEH DEEP SINGH)
JUDGE

December 22, 2015
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