

207 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-37678 of 2014
DECIDED ON : JULY 29, 2015

Raj Rani & others

...Petitioners

versus

Maya Ram

...Respondent

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporter of local papers may be allowed to see the judgment?***
- 2. To be referred to the Reporters or not?***
- 3. Whether the judgment should be reported in the Digest?***

Present : Mr. R.S. Budhwar, Advocate,
for the petitioners.

Mr. R.S. Mamli, Advocate
for the respondent.

JASPAL SINGH, J

Instant petition has been preferred by Raj Rani and others under Section 482 of the Code of Criminal Procedure (for short 'Code') seeking setting aside of order dated August 23, 2014 (P-3) vide which, revision of respondent was accepted, while setting aside order dated December 21, 2011 whereby, an application for enhancement of maintenance under Section 127 of the Code was allowed.

2. Reply filed on behalf of respondent, is taken on record, subject to all just exception.

3. At the very outset, it may be noticed that sole question which requires determination in the instant petition is whether an application under Section 127 of

the Code is legally maintainable?

4. Before deciding the above-said question on merits, it would be relevant to highlight Section 127 of the Code which reads as under:

“On proof of a change in the circumstances of any person, receiving, under section 125 a monthly allowance for the maintenance or interim maintenance or ordered under the same section to pay a monthly allowance for the maintenance or interim maintenance to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be”.

5. A glance at the afore-said provision makes it crystal clear that for enhancement or reduction in the amount of maintenance granted **under Section 125 of the Code**, application under Section 127 of the Code is required to be filed before the same Court which passed the order in application under Section 125 of the Code. In the case in hand, there is no order passed under Section 125 of the Code. Rather, respondent has been depositing the amount in the account of petitioner No.1 in view of some oral agreement/compromise arrived at between them. Since, there is no order passed under Section 125 of the Code, petition under Section 127 of the Code is not legally maintainable.

6. Accordingly, this Court is of the considered view that there is no infirmity or illegality in the impugned order. As a result of afore-said discussion, instant petition stands dismissed. However, learned trial Court is directed to dispose of the petition preferred by petitioner under Section 125 of the Code preferably within a period of six months from the date of receipt of certified copy of this order.

JULY 29, 2015

sham

SHAM SUNDAR
2015.09.07 10:52
I attest to the accuracy and
integrity of this document
HIGH COURT CHANDIGARH

(JASPAL SINGH)
JUDGE