

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

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Crl. Misc. No. M 9829 of 2013

Date of decision: 11.02.2015

*Gurcharan Singh*

*..... Petitioner*

*Versus*

*Gurdarshan Kaur and others*

*.....Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. R S Chahal, Advocate  
for the petitioner

Mr. G S Sidhu, Advocate  
for the respondents

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

**Rekha Mittal, J.**

The present petition filed under Section 482 of the Code Criminal Procedure (in short, 'Cr.P.C') lays challenge to the orders dated 18.11.2010 (Annexure P1) passed by the Sub Divisional Judicial Magistrate, SAS Nagar, Mohali and dated 06.03.2013 (Annexure P2) passed by the Additional Sessions Judge, SAS Nagar, Mohali whereby the respondents have been allowed maintenance @ Rs.4,000/- per month for respondent No. 1 and Rs.3,000/- per month for respondents No. 2 and 3 from the date of application filed under Section 125 Cr.P.C.

The sole submission made by counsel for the petitioner is that the Courts below have allowed maintenance from the date of application

which was filed in the year 2003 and was decided by the trial Court on 18.11.2010. It is further submitted that huge liability to pay arrears of maintenance has been fastened upon the petitioner by allowing claim of the respondents from the date of application instead of from the date of order. It is prayed that the order passed by the trial Magistrate and affirmed in revision may be modified to the extent that maintenance shall be payable from the date of order i.e. 18.11.2010 and not from the date of application.

Counsel for the respondents has submitted that the petition preferred by the respondents seeking enhancement of maintenance (CRM M 16773 of 2013) was allowed by this Court and maintenance has been enhanced from Rs.3,000/- per month to Rs.5,000/- per month i.e. Rs.2,500/- per month for each child from the date of order in aforesaid petition i.e. February 11, 2014. It is argued that as the respondents do not have any source of income to maintain themselves, there is no reason and justification to deprive them of their right to get maintenance from the date of filing of the application particularly in the circumstances that there is nothing on record suggestive of the fact that delay in conclusion of the proceedings is attributable to the respondents.

I have heard counsel for the parties and perused the records.

Counsel for the petitioner has failed to point out any tangible reason which can form the basis for modification of the order of maintenance as prayed for. As the respondents are the wife and minor children of the petitioner who has a legal and social obligation to maintain his family, I do not find any merit in contention of the petitioner that maintenance to the respondents is payable from the date of order and not from the date of application. There is no material on record to hold that the

discretion exercised by the trial Magistrate is either arbitrary or capricious, warranting intervention by this Court.

In view of what has been discussed here-in-above, finding no merit, the petition is dismissed.

(Rekha Mittal)  
Judge

11.02.2015  
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