

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: December 3, 2015

1. CRR (F) 179 of 2013

Rajiv Malik

.....Petitioner

Vs.

Shailza Malik and another

.....Respondents

2. CRR (F) 17 of 2014

Shailza Malik and another

.....Petitioners

Vs.

Rajiv Malik

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Dr. Parveen Hans, Advocate
for the petitioner in CRR (F) 179 of 2013 and
counsel for the respondent in CRR (F) 17 of 2014.

Mr. Kapil Gupta, Advocate for the respondents in
CRR (F) 179 of 2013 and counsel for the petitioners in
CRR (F) 17 of 2014.

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M.M.S. BEDI, J.

This order will dispose of two petitions bearing CRR (F) 179 of 2013 and CRR (F) 17 of 2014, challenging the order dated September 4, 2013 passed by District Judge, Family Court, Gurgaon.

For the convenience of this Hon'ble Court, the facts are taken from CRR (F) 17 of 2014.

Vide impugned order, an application filed by Shailza Malik and Master Ansh Malik under Section 125 Cr.P.C. for grant of maintenance was partly allowed and a sum of Rs.30000/- per month as maintenance has been granted only to Master Ansh, petitioner No.2. Marriage of Shailza Malik was solemnized with respondent on February 16, 2003. It is an admitted fact that a petition for divorce filed by petitioner No.1 on the ground of cruelty and desertion was decided on September 4, 2013 by a decree and judgment of the Family Court, Gurgaon, ordering dissolution of marriage on the ground of desertion holding that petitioner No.1 has not been able to establish the acts of cruelty. Application under Section 125 Cr.P.C. has also been decided on September 4, 2013. The learned District Magistrate has believed the statement of petitioner No.1 regarding their income. The husband has stated on May 28, 2013 that his monthly salary is 1200 dollar per month as he is working as Manager in Mars Textile in Panama whereas the wife is working as Development Manager in NIIT, Gurgaon earning about Rs.57600/-.

Learned counsel for the petitioners has submitted that it is the responsibility of both parents to look after the minor child. The wife in the present case ought to have been granted maintenance on account of her additional responsibilities being performed by her regarding looking after of the minor child. The enhancement of the amount has been prayed for by the petitioners claiming that the child born out of the wedlock is not maintaining good health and the expenditure incurred on his treatment i.e. medicine and special diet besides education, entitles her for enhancement of the amount.

In the reply filed by Rajiv Malik, husband, he has stated that since the wife is also earning, the maintenance amount should be reduced. The husband has also stated that on payment of some lumpsum amount, the matter can be settled. It is claimed by the husband that the Family Court has granted excessive amount to the wife.

I have considered the contentions of learned counsel for both the parties and I am of the opinion that both the husband and wife being earning having separated by getting a decree of divorce owe obligation towards the child born out of the wed-lock. No doubt the wife is earning but the said fact is not sufficient enough to decrease the amount of maintenance as her contribution towards the bringing up of the child by taking care and by physically and financially helping the child are the factors which indicate that she is performing her duties towards the child with more responsibility. The services of the mother are more than the financial help given by the

father. There is no ground to decrease the maintenance. The scope of enhancement of maintenance is also meager in the present case.

Both the petitions are thus dismissed upholding the order passed by the District Judge, Family Court, Gurgaon dated September 4, 2013.

December 3, 2015
sanjay

(M.M.S.BEDI)
JUDGE