

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRR(F)-71-2014(O&M)

Date of decision : 22.01.2015

Sanjay

... Petitioner

Versus

Ambika

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.M.S.Rana, Advocate
for the petitioner.

Mr.B.S.Jaswal, Advocate
for the respondent.

REKHA MITTAL, J.

The present petition has been directed against the order dated 04.03.2014 passed by the District Judge (Family Court), Bhiwani whereby petition under Section 125 of the Code of Criminal Procedure filed by the respondent-wife has been allowed and she has been awarded maintenance @ Rs.10,000/- per month.

Counsel for the petitioner contends that maintenance assessed by the trial Court is on higher side and liable to be reduced. The petitioner also has an obligation to maintain his minor daughter born out of his previous wedlock and his old aged parents. The petitioner was getting gross salary of Rs.28,544/- in July 2013 and certain deductions towards GIS, new pension scheme are being made and his carry home salary was Rs.25,857/-.

Another submission made by counsel is that the respondent was earlier

working as a special educator at a salary of Rs.15,000/- but later she resigned from that post in order to stake her claim to get maintenance from the petitioner. The respondent is well qualified and has done masters in education, therefore, she does not deserve to get maintenance as she has the capacity to earn her livelihood.

Counsel for the respondent has submitted that there is no evidence on record in regard to liability of the petitioner to maintain his parents. The mere fact that the respondent is a qualified person is not sufficient to deny her maintenance payable by her husband. Since the respondent has resigned from her previous job and is not working, therefore, has no source of income for her sustenance.

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

The respondent preferred application under Section 125 Cr.P.C. in November 2012 which culminated in the impugned judgment dated 04.03.2014 passed by the District Judge (Family Court), Bhiwani. There cannot be any dispute about the settled position of law that a mere fact that the wife is educationally qualified and, therefore, in a position to get some employment will not stand in her way to claim maintenance from her husband. There is nothing on record to suggest that since November 2012, the respondent is gainfully employed or has a source of income.

So far as the quantum of maintenance, maintenance includes money to satisfy the needs of food, housing, clothing, entertainment etc. The wife has the right/privilege to enjoy the same amenities of life which she would have had she been staying with her husband. It has been proved on record that the petitioner had a gross salary of Rs.28,544/- out of which

Rs.30/- and Rs.2657/- per month were deducted towards GIS and contribution towards pension respectively. As the money deducted from the salary would be available for payment to him in future, these deductions cannot be taken out of consideration for the purpose of assessment of maintenance. The Court cannot ignore that salary of a government employee increases every year and there is pay revision after certain years. The respondent is not expected to file petition for enhancement at short intervals to claim maintenance commensurate with the gross salary of the husband. Taking into consideration liability of the petitioner to maintain his daughter born out of his previous wedlock and the sky rocketing prices of daily necessities of life, I do not find force in the contention of the petitioner that maintenance assessed by the Court is excessive or liable to be reduced.

For the reasons aforesaid, the petition is dismissed.

(REKHA MITTAL)
JUDGE

January 22, 2015.

DK