

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

CR No. 2876 of 2015 (O&M)

Date of decision: 11.04.2016

Ajay Kumar

... Petitioner

versus

Anju

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. R.S. Sihota, Senior Advocate with
Mr. B.R. Rana, Advocate for the petitioner.
Mr. Mukesh Kumar Verma, Advocate, for the respondent.

K.Kannan, J. (ORAL)

The husband who is drawing the salary of Rs. 19,000/- and odd has been directed to pay Rs. 7,000/- maintenance towards wife and child. The Court has made reference in the order about Rs. 5,000/- granted as maintenance under Section 125 for the maintenance of the child. In the manner in which the order is drafted referring to the respective claims for the wife and child that would satisfy their needs, I reckon the Court was not considering the amount as Rs. 7,000/- to be in addition to Rs. 5,000/- granted under Section 125 proceedings. Even if it were not to be so, I notice that the maintenance granted under Section 125 was after a full fledged contest and the order was passed in the year 2012. There is no substantial change of circumstance to modify, except to provide for an additional amount of Rs. 2,000/- that would be granted over an assessment made two years later.

The counsel for the respondent states that the gross salary is Rs. 36,000/- and he contributes somewhere close to Rs. 11,000/-

towards GPF and this is not a compulsory deduction and no portion of the same shall be taken note of for assessing the maintenance due. The petitioner shall not be allowed to draw on the GPF during the pendency of the matrimonial proceedings and if there is any such need he shall apprise the Court so that the wife and child will also have the benefit of such withdrawal from the said sum.

The counsel for the respondent also argues that the husband has challenged the quantum of maintenance granted by the magistrate before the Court below. The counsel for the petitioner says that he will not press for any deduction of maintenance and take Rs. 7,000/- granted by the Court under Section 24 to constitute the maintenance that become payable even under Section 125 CR.P.C.

There is a dispute between the parties about what still remains due as maintenance. The respective parties may give their memorandum of calculation before the trial Court and the trial Court will not allow for prosecution of the case for the husband without ensuring the payment of arrears of maintenance in full is worked out at the rate of Rs. 7,000/- per month.

The order already passed stands clarified to the above extent and the revision petition is disposed of as such.

(K.KANNAN)
JUDGE

11.04.2016
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