

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

**CR No.3997 of 2015
Decided on: 30.03.2016**

Rajwant Kaur

....Petitioner

Versus

Jagdeep Singh

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Ms. Deepali Puri, Advocate
for the respondent.

REKHA MITTAL J. (Oral)

The present petition, by invoking Article 226 of the Constitution of India, has been filed for modification of order dated 26.11.2012 (Annexure P-1) passed by the Civil Judge (Junior Division), Ludhiana (incorrectly mentioned as Judicial Magistrate Ist Class, Ludhiana in the order) whereby the petitioner has been allowed maintenance *pendente lite* @ Rs.5,000/- per month.

The respondent-husband filed a petition under Section 9 of the Hindu Marriage Act, 1955 (hereinafter to be referred as 'HMA') seeking restitution of conjugal rights. The petitioner/respondent filed an application for grant of maintenance that has been allowed by the Court below and she has been awarded maintenance *pendente lite* @ Rs.5,000/- per month and litigation expenses to the tune of Rs.2,000/-.

Counsel for the petitioner would contend that the

maintenance assessed by the Court is on lower side, in view of needs of the petitioner, the minor son of the parties born on 23.04.2001 and salary of the respondent-husband when otherwise the wife is entitled to enjoy the same amenities of life as she would have had she been residing in the matrimonial home. It is further argued that by taking into consideration salary of the petitioner and that of the respondent in December, 2012 depicted in Annexure P-2, maintenance assessed by the Court requires enhancement.

Counsel for the respondent would submit that the petitioner was drawing a salary of more than Rs.9,000/- in December, 2013. The respondent has an obligation to maintain his old aged parents besides meeting expenses on medical treatment of his father whose leg has been amputated. The last submission made by counsel is that as the petitioner-wife is staying away from the matrimonial home without any reasonable and plausible cause, she is not entitled to indulgence of the Court.

I have heard counsel for the parties, perused the records particularly the order impugned.

Indisputably, the petitioner needs money to maintain herself and the minor son of the parties, more than 11 years old at the time of disposal of the application by the learned trial Court. As per the Certificate (Annexure P-2), the respondent was working as Village Development Officer (VDO) in the office of Block Development and Panchayat Officer, Ludhiana-I and drawing gross salary of Rs.26,130/- in the month of December, 2012. There is nothing on record to suggest that the petitioner-wife was drawing salary more than Rs.6,000/- per

month in November, 2012, though her salary might have increased later in December, 2013 as contended by counsel for the respondent. No plea was raised that the respondent has an obligation to maintain his parents. Even if the respondent incurs some expenditure on his parents, he cannot absolve himself of his liability to provide adequate maintenance to his family consisting of his wife and the minor child. As has been rightly argued by counsel for the petitioner that the wife is entitled to enjoy the same amenities of life as she would have had she been staying with her husband. Keeping in view prices of daily necessities of life coupled with salary drawn by the petitioner and the respondent-husband, it is expedient in the interest of justice that the petitioner is awarded maintenance @ Rs.12,000/- per month from the date of filing of the application.

For the foregoing reasons, the petition stands disposed of with modification in the aforesaid terms.

(REKHA MITTAL)
JUDGE

30.03.2016
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