

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

Crl. Misc. No. M-1450 of 2015 (O&M)

Date of Decision: 15.12.2016

Maneesh Mittal

.. Petitioner

Vs.

Brij Bala

.. Respondent

and

Crl. Misc. No. M-3340 of 2015 (O&M)

Brij Bala

.. Petitioner

Vs.

Maneesh Mittal

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: - Mr. Avneesh Mittal, Advocate
for petitioner Maneesh Mittal in
Crl. Misc. No.M-1450 of 2015 and
for respondent in Crl. Misc. No.M-3340 of 2015**

**Mr. S.S. Bains, Advocate
for petitioner Brij Bala in
Crl. Misc. No. M-3340 of 2015 and
for respondent in Crl.Misc.No.M-1450 of 2015.**

ANITA CHAUDHRY, J.

The petitioners in both the petitions are impugning the order dated 03.12.2014 passed by Special Court, Chandigarh, by virtue of which the order dated 02.01.2013 passed by the Judicial Magistrate Ist Class, Chandigarh was modified and the amount fixed as interim maintenance @ Rs.15000/- per month each to the wife and son and Rs.20,000/- as rent was enhanced to Rs.25000/- each and Rs.30,000/- as rent. The Magistrate awarded the interim maintenance from the date of order, but the revisional

Court directed to pay it from the date of the application.

By filing CrI. Misc. No.M-1450 of 2015, petitioner Maneesh Mittal has questioned the enhancement made by the revisional Court and by filing CrI. Misc. No.M-3340 of 2015, petitioner Brij Bala has sought further enhancement of the amount of interim maintenance and rent, besides providing a chauffeur driven car.

The facts which are not in dispute are that Maneesh Mittal was married to Brij Bala on 17.01.2000 and son Archit Mittal and daughter Aarshaya were born. The husband filed a petition seeking divorce on the ground of cruelty. In that petition, the wife filed an application under Section 24 of the Hindu Marriage Act and a sum of Rs.50,000/- was fixed as maintenance and Rs.50,000/- were awarded as litigation expenses on 19.05.2012. Both the parties filed separate revisions against the said order, which were dismissed by this Court on 18.10.2012. SLP filed by the wife against the order of this Court was dismissed by the Hon'ble Apex Court on 21.1.2013. Meanwhile, the divorce petition was allowed by the Court below vide judgment dated 30.10.2012 and the order granting divorce has been upheld by this Court vide order dated 17.02.2016.

During pendency of divorce petition, the wife filed a petition under Domestic Violence Act. Along with the petition, an application under Section 23 of the Act *ibid* was filed seeking interim maintenance of Rs.3 lacs, a furnished residence and a vehicle with a driver. The application was contested. Vide order dated 02.01.2013 the application was allowed and Rs.15,000/- each were awarded as maintenance to the wife and the son living with her and the husband was directed to pay Rs.20,000/- as rent for the accommodation. The payment was directed to be made from the date of

order. Dis-satisfied with it, the wife preferred a revision petition and vide order dated 03.12.2014 it was allowed and the order passed by the Magistrate was modified and the amount of interim maintenance was enhanced to Rs.25,000/- each and the rent for accommodation was increased to Rs.30,000/-, taking the total to Rs.80,000/-. It was also directed that the payment be made from the date of application.

Aggrieved with the same, both the parties have filed the instant petitions.

I have heard learned counsel for the parties and have perused the paper-book.

The relationship between the parties and their separation is not in dispute. The daughter is living with the petitioner Maneesh Mittal while the son is living with Brij Bala. A decree of divorce had been passed on 30.10.2012 and the same has been affirmed by this Court on 17.02.2016. The issue of quantum of maintenance which she is entitled to get under the Domestic Violence Act is yet to be decided by the trial Court. It is a matter of trial. It has come on record that she had already taken Rs.71 lacs from Maneesh Mittal towards permanent alimony. She is obviously enjoying the interest earned therefrom. In the application itself, Brij Bala had averred that she along with the son were living at her father's house, still she had been awarded amount in lieu of rent for accommodation. Provisions of interim relief of maintenance are engrafted so as to save the neglected wife, children or the parents, as the case may be, from the hands of starvation and vagrancy during the pendency of the petition. But the parties to the petition are holding higher positions in Banks and are earning handsomely. Considering the status of the parties and the fact that both of them are

earning, the Magistrate had fixed the amount of interim maintenance and had directed Maneesh Mittal to pay amount towards the rent of the accommodation from the date of order. The revisional Court has erred in enhancing the amount of maintenance as well as the amount of rent in lieu of accommodation dehors the aforesaid facts. The order passed by the revisional Court is set aside and that of Magistrate dated 02.01.2013 is restored.

The issue as to whether the payment of maintenance has to be given effect from the date of order, as held by the Magistrate or from the date of application, as was directed by the revisional Court is kept open and shall be decided by the trial Court by giving cogent reasons in this regard at the time of final decision of the case. Petitioner Maneesh Mittal will clear the arrears of the amount of interim maintenance and rent, if any, in terms of the order passed by the Magistrate, forthwith. The trial Court is directed to expedite the proceedings and dispose it of preferably within four months from the date of receipt of the certified copy of this order.

With the aforesaid observations and directions, the petition filed by Maneesh Mittal stands disposed of while the petition filed by Brij Bala is dismissed.

Nothing contained hereinabove shall be taken as an expression of opinion on the merits of the case.

December 15, 2016
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No