

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-20610 of 2012

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Date of decision:4.2.2016

Smt. Rajbala

.....Petitioner

v.

Jaswant Singh

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. S.K. Verma, Advocate for the petitioner.

Mr. Suman Jain, Advocate for the respondent.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 3.9.2008 (Annexure-P.1) passed by the learned Judicial Magistrate Ist Class, Hisar and order dated 29.3.2012 (Annexure-P.3) passed by the learned Additional Sessions Judge, Hisar, vide which the learned Courts below have granted a meagre maintenance to the petitioner.

Notice of motion was issued in this case.

Mr. Suman Jain, learned counsel has put in appearance on behalf of the respondent and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Rajbala filed petition under Section

125 Cr.P.C. for grant of maintenance before learned Judicial Magistrate Ist Class, Hisar, which was decided vide order dated 3.9.2008 and he granted maintenance of ₹2,000/- per month to the petitioner. The petitioner filed revision petition for enhancement of the maintenance and the learned Additional Sessions Judge, Hisar, vide judgment dated 29.3.2012 allowed the revision petition filed by the wife and dismissed the revision petition filed by the husband and the amount of maintenance was enhanced from ₹2,000/- to ₹5,000/- per month.

Aggrieved from both these orders, this petition under Section 482 Cr.P.C. has been filed for further enhancement of the maintenance.

From the record, I find that it is admitted fact in the application that the petitioner was married with the respondent-Jaswant Singh on 13.7.1982 and three children were born out from this wedlock. It has also been stated that the respondent is posted as Accounts Officer in BSNL and is earning ₹30,000/- per month and he is liable to give ₹10,000/- per month as maintenance to the petitioner and she has not any movable or immovable property in her name.

The respondent's case was that one of his children Harish is studying in Engineering College, Behal. His daughter Mamta is getting Polytechnic course at Sirsa and son Munish is studying at Hisar. The respondent is paying their tuition fees, hostel charges, travelling charges etc. and also maintaining them by borrowing loan from Bank, Department, Financial Institutions and relatives. He has stated that he is getting only ₹8,600/- per month after deduction.

In view of the evidence produced before the learned Judicial Magistrate, he granted maintenance @₹2,000/- per month.

In the revision petition, the learned Additional Sessions Judge considering the salary certificate of the respondent-husband (Annexure-P.1) with the revision petition before the Additional Sessions Judge for April 2008, showing total salary as ₹30,256/- and deductions as ₹16,975/-, which include ₹10,000/- towards GPF subscription, enhanced the maintenance.

Keeping in view the facts and circumstances of the present case, the income certificate produced on record and in view of the fact that three children, who are studying in Engineer College or Polytechnic College etc., are being looked after by the respondent-husband, I find that order passed by the learned Additional Sessions Judge by enhancing the maintenance amount from ₹2,000/- to ₹5,000/- is correct.

The learned Additional Sessions Judge has correctly enhanced the amount to the extent of ₹5,000/- per month and, in no way, it can be held that the petitioner is entitled to more enhanced amount than ₹5,000/-. In no way, the order passed by the learned Additional Sessions Judge on 29.3.2012 can be held as illegal or amounts to miscarriage of justice.

Learned counsel for the petitioner argued that now the salary of the respondent is much more. On that point, the petitioner is at liberty to file application for enhancement of maintenance, in view of the changed circumstances, if admissible.

However, it has also been stated that the petitioner has already taken the divorce from the respondent.

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Therefore, keeping in view the facts and circumstances of the present case, I do not find any merit in the present petition and the same is dismissed.

February 4, 2016.

(Inderjit Singh)
Judge

hsp