

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. M No. 18681 of 2015 (O&M)
Date of Decision: 12.04.2016

Kewal Singh

...Petitioner(s)

Versus

Harbhajan Kaur

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? No

Present: Mr. B.S. Jaswal, Advocate
for the petitioner.

Respondent in person with
Mr. Veneet Sharma, Advocate.

ANITA CHAUDHRY, J.

1. The petitioner seeks quashing of order dated 20.11.2013, passed by JMIC, Baba Bakala and the order passed by the Sessions Judge, Amritsar.

2. For the sake of brevity only few facts are being mentioned. The SDJM, Baba Bakala allowed maintenance of Rs.400/- per month to the wife in a petition filed under Section 125 Cr.P.C. from 16.07.2001. In 2011 Harbhajan Kaur filed an application under Section 127 Cr.P.C. seeking enhancement. The maintenance amount was enhanced to Rs.3,000/- per month from the date of application which was 15.06.2011. A revision was filed by Kewal Singh, which was dismissed on 02.03.2015. There was no order or modification.

3. When the matter came up for the first date, the counsel for the petitioner did not press the amount of maintenance granted to the wife. He had submitted that the increase of maintenance could only be from the date of application submitted under Section 127 Cr.P.C. which was 15.06.2011.

4. The counsel for the petitioner refers to para no.10 of the order passed by the Revisional Court and it was urged that there is reference that the maintenance has to be allowed from 2001 and the enhanced amount could only be paid from 2011 when the petition under Section 127 Cr.P.C. was filed.

5. The counsel for the respondent states that no modification was ordered by the Additional Sessions Judge, Amritsar and the Magistrate had allowed the maintenance from the date of filing of the petition under Section 127 Cr.P.C. and the petition should be dismissed.

6. The counsel for the petitioner had stated that an execution had been filed by the wife claiming maintenance at the enhanced rate from 2001. When asked to produce the copy, he was unable to do so. It is necessary to notice Para 10 of the order, which reads as under:-

"From the perusal of the facts and circumstances of the present case as well as the perusal of the record of trial court, this court is of the considered view that in present days, even a daily wager is able to earn Rs.300/- per day, therefore, he can easily earn Rs.9000/- p.m. In this way, the trial court has rightly enhanced the maintenance from Rs.400/- p.m. to Rs.3000/- p.m. in favour of the respondent/wife since 2001 to 2013, therefore, the maintenance of Rs.3000/- p.m. fixed by the trial Court is adequate maintenance

and rightly awarded the same. Even from perusal of jamabandi of the year 2008-2009, revisionist has 1/8 share in land situated at village. Hence, present revision petition of the revisionist is hereby dismissed. File be consigned to the record room."

7. A perusal of para no.10 of the order only shows that the Revisional Court, was comparing the amount that was ordered in 2001 and the amount that was allowed in 2013 so as to highlight the figure and nothing more.

8. A perusal of the order would show that the revisional Court had referred to the year 2001 to 2013 so as to give a comparative chart as to how the maintenance that was awarded in 2001 @ Rs.400/- per month had been enhanced to Rs.3,000/- per month in 2013. Though it is not happily worded but nothing more can be read into it. The Additional Sessions Judge had ultimately dismissed the revision petition. The petition is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

12.04.2016

'Sunil'