

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-29409 of 2015
Date of Decision: 20.12.2016**

Savita

.....Petitioner

Versus

Vikas

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. V.D.Sharma, Advocate
for the petitioners.

Mr. Atul Gaur, Advocate
for the respondent.

ANITA CHAUDHRY, J(ORAL)

The petitioner has challenged the order dated 21.7.2015 Annexure P-4 vide which maintenance of Rs. 3,000/- had been allowed to the petitioner from the date of filing of the revision petition.

Few facts are necessary. The petitioner was married to respondent in December 2005. A petition under Section 125 Cr.P.C. was filed seeking maintenance to the tune of Rs. 10,000/- per month. The plea taken by the petitioner was that the respondent was a businessman and his income was Rs. 30,000/- per month. The petition was filed in September 2012. The respondent took the plea that he was doing private job and was earning Rs. 4,000/- per month.

Both the sides led evidence and the petitioner examined herself and reiterated the facts contained in the petition. The respondent also

examined himself.

The petitioner had got a case registered under Section 498-A, 406, 34 IPC in February 2009 and the trial ended in acquittal in December 2013.

The Magistrate considered the evidence and came to the conclusion that it was the petitioner who had refused to live with her husband without sufficient cause and was not entitled to any maintenance. Against that order, a revision was filed. Meanwhile, another matter arising out of the petition filed under Section 13 of the Hindu Marriage Act came before the District Judge on an application filed under Section 24 of the Hindu Marriage Act seeking maintenance *pendente lite*. After noticing the averments the District Judge allowed Rs. 3,000/- per month as maintenance along with litigation expenses of Rs. 5500/- from the date of filing of the application.

The District Judge noted in the revision that the petitioner had been allowed Rs. 3,000/- per month as maintenance and litigation expenses of Rs. 5500/- in the application filed under Section 24 of the Hindu Marriage Act and the wife could only claim maintenance under one provision of law and therefore it allowed the same amount of maintenance and from the date of filing of the revision. It noted that the maintenance in the other petition had been allowed from the date of filing of the application.

The record has been received.

I have heard both the sides.

The main contention of the counsel for the petitioner is that the respondent was a businessman and only a sum of Rs. 3,000/- per month had

been allowed and that too from the date of filing of the revision and it should have been awarded from the date of filing of the petition.

The submission on behalf of the respondent is that the petitioner not only dragged the husband in number of litigations and she had lodged a false FIR which ended in acquittal and the Magistrate had rightly concluded that the petitioner had failed to give sufficient cause for leaving the matrimonial home. It was urged that the Revisional Court had considered that the maintenance had been allowed to the wife from the date of filing of the revision and there was no evidence to show that the income of the husband was Rs. 30,000/- per month or that he was carrying out any business.

The parties had been married in 2005. They have no child from the marriage. The petitioner claimed that she had been thrown out of the house in 2008 after she was beaten up. The petitioner got the FIR registered in September 2009. She was unable to lead evidence of cruelty or harassment and the trial ended in acquittal. The petitioner was seeking maintenance in the petition filed in 2012 while the trial was going on. The respondent had offered to keep and maintain the petitioner but she had refused. The trial Court had dismissed the prayer for maintenance. The Court noted that the petitioner had not examined any other witness and not even her parents had come forward to support her and the prayer was declined. The Revisional Court has awarded maintenance of Rs. 3,000/- per month i.e. the same amount which had been allowed in the application filed by the petitioner under Section 24 of the Hindu Marriage Act. That prayer has been allowed from the date of filing of the revision. I see no infirmity or illegality in the order. The Revisional Court has given reasons for not

allowing maintenance from the date of filing of the petition under Section 125 Cr.P.C.

The petition is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

December 20, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No