

In the High Court of Punjab and Haryana at Chandigarh

1. Crl. Misc. No. M-38638 of 2015 (O&M)
Date of Decision: 30.8.2016

Gurpreet SinghPetitioner

Versus

Lovepreet Kaur and anotherRespondents

2. Crl. Misc. No. M-36023 of 2015

Lovepreet Kaur and anotherPetitioners

Versus

Gurpreet SinghRespondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jitender Dhanda, Advocate
for the petitioner
(in CRM-M-38638-2015)
and for the respondent
(in CRM-M-36023-2015).

Mr. Munish Kumar Garg, Advocate
for the petitioners
(in CRM-M-36023-2015)
and for the respondents
(in CRM-M-38638-2015).

ANITA CHAUDHRY, J(ORAL)

Vide this order, above mentioned two petitions would be disposed
of as they arise out of the common order.

Petitioner-Gurpreet Singh has filed the petition under Section 482

Judge, Fatehabad who enhanced the interim maintenance awarded by the trial Court.

Petitioners-Lovepreet Kaur and Dilraj Singh have filed the petition seeking modification and enhancement of maintenance.

The Sub Divisional Judicial Magistrate, Tohana vide order dated 3.4.2015 had allowed Rs. 4,000/- per month as interim maintenance to Lovepreet Kaur and the minor son. Dissatisfied with the same Lovepreet Kaur challenged the order and the interim maintenance was enhanced to Rs. 13,000/- per month.

The parties were referred for mediation but it had failed. The father is also doubting the paternity of the child. Petitioner- Gurpreet Singh was ready for the DNA test and had approached the trial Court and had stated that he would bring up the child, if the child was his. It had been stated during the proceedings that an application has been filed before the trial Court but the matter had not been finally disposed of.

The parties were married on 20.2.2011. A petition under the Domestic Violence Act was filed by the wife. She sought maintenance for herself and the son and interim maintenance of ₹ 1800/- was allowed on 29.5.2013. The wife also filed a petition under Section 125 Cr.P.C. seeking interim maintenance and a sum of ₹ 4,000/- was allowed as interim maintenance on 3.4.2015. The order was challenged before the Additional Sessions Judge and the maintenance has been enhanced to ₹ 13,000/- by the Additional Sessions Judge on 31.8.2015.

Counsel appearing for Gurpreet Singh claimed that he was paying EMIs of Rs. 15,000/- per month for the loans taken by him and the maintenance

side. It was urged that the Additional Sessions Judge had failed to consider that the petitioner was paying interim maintenance of ₹ 1800/- per month in the petition filed under the Domestic Violence Act and he seeks modification and reduction of the amount and urged that there could be no order for payment of interim maintenance simultaneously in two separate petitions and the amount paid should have been adjusted.

The counsel appearing for Lovepreet Kaur urges that the complaint under the Domestic Violence had been withdrawn. This fact is disputed by the other side. Counsel states that there are huge arrears even now and the amount is not being paid, though, an undertaking had been given that he would pay in installments and proceedings for attachment have been initiated and Gurpreet Singh is an employee with HDFC Bank and his salary is more than ₹ 40,000/- per month and only a sum of ₹ 13,000/- has been allowed to both the wife and the child and they are seeking enhancement and 50% of the salary should have been allowed for them considering the rise in prices. It was urged that the child was going to school.

The counsel appearing for Lovepreet Kaur had stated that the proceedings under the Domestic Violence Act had been withdrawn. This fact was disputed by the counsel appearing for Gurpreet Singh but a concession has been given by the counsel appearing for Lovepreet Kaur that whatever amount is paid in different petitions would be adjusted. Even otherwise the wife cannot claim maintenance twice in two different proceedings. Any amount paid in the proceedings launched under the Domestic Violence Act would be adjusted for the same period against the outstanding claim in the proceedings filed under Section 125 Cr.P.C. Considering the income, I find

that the amount allowed by the Additional Sessions Judge is not on the higher side. The Court had considered the income. The take home salary of the husband is around ₹ 35,000/- and he could certainly spare ₹ 13,000/- for his wife and child. The parties are yet to lead their evidence. No case for enhancement is made out.

Both the petitions are dismissed with the clarification that the amount that is paid by way of interim maintenance in the proceeding under the Domestic Violence Act will be adjusted. It is also clarified that the trial Court would strictly decide the case on merits without being inhibited or influenced by any observation made herein.

(ANITA CHAUDHRY)
JUDGE

August 30, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No