

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

**CRR(F). No.140 of 2014 (O&M)
Date of decision : 31.03.2016**

Deepak

.....Petitioner(s)

Versus

Anjali

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vishal Gupta, Advocate
for the petitioner.

Ms. Divya Sharma, Advocate
for the respondent.

ANITA CHAUDHRY, J(ORAL)

The petitioner has assailed the judgment dated 14.05.2014, passed by the Family Court, Gurgaon who allowed Rs.10,000/- per month as maintenance to the wife.

Anjali was married to Deepak in January, 1998. A son was born to the wedlock in August, 1999. The petition under Section 125 Cr.P.C. was filed by the wife in August, 2013. She had claimed that the husband was a Manager at Scindia House, Connaught Place, New Delhi and was earning Rs.40,000/- per month. She had levelled allegations that the husband was quarrelsome and used to pick-up petty fights for no reason and was dis-satisfied with the dowry. Allegations were also levelled that he used to beat her.

The respondent admitted the relationship and denied that he had ever beaten her or had forced her to leave the matrimonial home. He has denied that he had demanded dowry. It was pleaded that the wife left the matrimonial home on her own and he was taking care of the son and the petitioner was capable of maintaining herself.

The Family Court assessed the material evidence placed before it and allowed Rs.10,000/- per month as maintenance from the date of filing of the petition.

Aggrieved by the order, the present petition has been filed.

The petitioner had pleaded that the wife had left the matrimonial home without reasonable cause. It was pleaded that the Court below had ignored the fact that the take home salary was Rs.28,874/- and his son was 15 years old and he had to spend a large portion on his income in the upbringing and education of the child. It was pleaded that the wife had purchased a plot measuring 100 square yards in Bhondsi, District Gurgaon and she had the means and could maintain herself and these facts had been ignored by the Family Court.

I have heard both the sides.

Counsel for the petitioner had contended that the take home salary of the petitioner was about Rs.28,000/- per month and the husband had given an affidavit detailing therein the monthly expenses that he had been taking care of the child and he had to make house-hold expenses and on his own treatment. It was urged that the petitioner had undergone a bypass surgery and was a heart

patient and the petitioner had admitted that the expenses shown by the husband were correct and the Family Court should not have allowed any maintenance to the wife. It was urged that if the wife could purchase a plot that would mean that she had resources and that evidence had been kept away from the Court. The counsel had referred to various receipts, telephone & water bills and his treatment record.

The submission on the other hand was that the plot had been purchased from the sale of jewellery and some amount was contributed by the husband but the wife had no income nor she was working.

The relationship is admitted. It is also admitted that the couple has a child who is 15 years old and is living with the father. The respondent has admitted the expenses spent out by the petitioner in his affidavit filed before the Family Court. The husband had also produced the various bills and receipts to show that he was actually paying that amount. The husband is heart patient. He had undergone a bypass surgery in 2013 and he will have to be on medication life long.

It is not in dispute either that the take home salary of the husband is little over Rs.28,000/- per month. The expenses spelt out in the affidavit show that a sum of Rs.16,812/- are made towards school fees, transport, tuition fee, water & electricity charges & telephone and conveyance bills. This amount does not include the amount spent on food. If this amount is deducted from the take home salary, the amount available in the hands of the husband would only

be about Rs.12,000/- per month, out of which a sum of Rs.10,000/- per month has been allowed to the wife.

Admittedly, the husband had also contributed in the purchase of the plot. There is no material to show that the wife had contributed or had any jewellery which was sold. The husband has specifically pleaded that the plot was purchased for Rs.1,20,000/-. The wife has admitted that the husband had contributed Rs.1 lac for the sale consideration. This loan amount was taken by the husband and he is still paying the loan. In the light of this, it can be said that the amount allowed to the wife is certainly on the higher side. The amount which ultimately remains in the hands of the petitioner is just Rs.12,000/- per month. Therefore, considering the income in the hands of the husband, only a sum of Rs.4,500/- per month can be allowed to the wife.

The petition is partly allowed.

31.03.2016
sunil

(ANITA CHAUDHRY)
JUDGE