

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

**Crl. Revision No. (F)-44 of 2015(O&M)
Date of decision : 22.04.2016**

Jyoti @ Pooja **... Petitioner**
versus

Vinit Kumar **... Respondent**

with **Crl. Revision No.(F)-194 of 2014(O&M)**

Vinit Kumar **..... Petitioner**
versus

Jyoti @ Pooja **... Respondent**

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? Yes/No

**Argued by: Mr. M.S. Kathuria, Advocate for
Mr. Rakesh Nehra, Advocate
for Jyoti @ Pooja.**

**Mr. Anil Kumar Bhardwaj, Advocate
for Vinit Kumar.**

ANITA CHAUDHRY, J.

Both the petitions are being decided together as they arise from the same order dated 11.09.2014 passed by the Family Court, Gurgaon, in a petition filed under Section 125 Cr.P.C. by Jyoti @ Pooja(hereinafter to be referred as the wife) Vinit Kumar, the husband has been directed to pay a sum of Rs.12000/- per month as maintenance from the date of filing of the petition.

The wife has challenged the order on account of

inadequacy of the maintenance amount in comparison to the income of the husband while the husband has questioned the maintenance amount being highly excessive.

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

Learned counsel for the wife had urged that the Court below had concluded that the husband is earning handsome amount, but erred in granting a meager amount of Rs.12000/- per month. The Court below had failed to consider that it was not possible to sustain in the little amount. According to learned counsel, the husband is running an industry under the name and style of M/s Simplex Industries at Delhi, wherein 25-50 employees were working and the husband owns a house in Delhi worth crores of rupees and was maintaining a Honda Accord car.

Learned counsel for the husband had submitted that the income was not assessed by the Court below and still a sum of Rs.12,000/- had been awarded as maintenance. According to him, the Court below failed to take note of the fact that the wife is highly qualified and was running a boutique and earning good amount and she herself had deserted the husband.

The marriage between the parties and separation is not in dispute. The husband and his family members are facing a criminal case for harassing and maltreating the wife. The plea that the wife had herself deserted the husband was turned down by the Court below and it was observed that it was not acceptable that a woman would unnecessarily abandon her

matrimonial home. There is no reason to take a different view in this regard.

Coming to the income aspect, both the parties have failed to place any concrete evidence about income of each other. They have now referred to documents and attempted to show income of either side. The husband refer to the photographs Annexure P-5 and receipt Annexure P-6 to show that wife is running a boutique in the name and style of Fashion Studio and claimed that she was earning Rs.5 lacs per month. The photographs alone cannot prove the income. The wife had admitted that she was extending help to her mother and was running the boutique. She must be earning some amount from it.

The wife had placed reliance on a copy, Annexure -2 made in respect of Simplex Industries, admittedly run by husband, at India Mart on the net showing the business profile and 25-50 workers working in the establishment. The husband had claimed that it was solely done to attract entrepreneurs and he was only running a small scale industry. ITR of the year 2014-15, Annexure P-7 was placed on record to show the annual income of the husband as Rs.1,73,360/-, but it was after filing of the application for maintenance by the wife. From the photographs, Annexure P-4 it cannot be gathered that the same are of factory premises being run by the husband.

In absence of any cogent and convincing evidence led by the parties on the income aspect, it can only be determined on hypothesis. The husband had admitted his income to be around

Rs.15,000/- per month, but it would be more than that. He is maintaining his parents and paying share of his installment of the home loan. The wife on the other hand is helping her mother in the boutique and must be having some income therefrom. It cannot be ignored that she had done MBA in Fashion Designing and is pursuing Ph.D in Marketing Management. She is a highly qualified and it cannot be expected that she would be sitting idle nor she should. The husband is legally bound to maintain his wife. The wife is also entitled to the similar treatment which she enjoyed had she been residing in the company of the husband.

With no satisfactory evidence, the order passed by the Family Court granting maintenance of Rs.12,000/- per month seems to be excessive. The order is modified. The amount of maintenance is reduced to Rs.8500/- per month, which shall be payable from the date of filing of the petition under Section 125 Cr.P.C. Any amount, if any, paid in excess to the wife shall be adjusted towards future maintenance. The revision petition filed by the husband is partly allowed with modification to the above extent while the petition filed by the wife is dismissed.

April 22,2016
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(ANITA CHAUDHRY)
JUDGE