

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

**CRM-M No.11108 of 2015
Decided on: 17.05.2017**

Priyanka

....Petitioner

Versus

Harinder Singh

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. L.M. Gulati, Advocate for the petitioner.

Mr. R.S. Rana, Advocate for the respondents.

REKHA MITTAL, J.

The present petition under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') has been filed for modification of order dated 29.04.2014 (Annexure P1) passed by the Judicial Magistrate Ist Class, Patiala whereby the petitioner has been allowed maintenance @ Rs.3,000/- per month from the date of order in place of from the date of application and order dated 05.01.2015 (Annexure P2) passed by the Additional Sessions Judge, Patiala affirming the order of the trial Court in revision.

Counsel for the petitioner has submitted that Priyanka, minor daughter was born out of the wedlock of Jasbir Kaur and Harinder Singh who solemnized marriage on 27.11.2004. The child, born on 16.03.2006 was one year old at the time of filing of the application under Section 125 Cr.P.C. in May, 2007. The petitioner was allowed interim maintenance @ Rs.500/- per month but while deciding the application finally, maintenance has been assessed @ Rs.3,000/- per month. Jasbir Kaur, mother of the minor also claimed maintenance from

her husband but her prayer was rejected on the ground that she is earning hand.

Counsel for the petitioner has submitted that the learned trial Court has awarded maintenance @ Rs.3,000/- per month from the date of order in place of from the date of application, therefore, orders passed by the Courts below need modification by allowing maintenance from the date of application. Another submission made by counsel is that maintenance assessed by the Courts needs enhancement, keeping in view needs of the child who is at present 11 years old and salary of the respondent would increase every year.

Counsel for the respondent, on the contrary, has supported the impugned order with the submission that maintenance was rightly allowed from the date of order, in terms of Section 125(3) Cr.P.C.

I have heard counsel for the parties and perused the paperbook particularly the orders impugned.

The child was born in March, 2006. She was 01 year and 02 months old when the application was filed by the mother for herself and on behalf of the minor child. It is surprising that the proceedings remained pending before the trial Court for almost 07 years. The child was allowed interim maintenance @ Rs.500/- per month. The respondent – father is working as J.E. with Punjabi University, Patiala. Before the revisional Court, information received under the RTI Act in regard to salary of the respondent at Rs.16,248/- per month was brought on record. Counsel for the respondent has not disputed that in September, 2014, he was getting salary of Rs.16,248/-. The mother of the child is working as a Clerk and it appears that carry home salary is

Rs.5,200/- per month and total salary Rs.8,000/- per month.

The question that calls for consideration is whether in the given circumstances, the child is entitled to maintenance @ Rs.3,000/- per month from the date of filing of application.

Indisputably, the child was 01 year and 02 months old at the time of filing of application. Salary of the father in the year 2014 was Rs.16,248/-. In view of salary of the father and requirements of the child, the petitioner shall be entitled to maintenance @ Rs.500/- per month upto May 2009, Rs.1,000/- per month from June, 2009 till May, 2011, Rs.2,000/- per month from June, 2011 till disposal of the petition by the trial Court.

Another issue for determination is whether the petitioner is entitled to increase in maintenance from the date of order i.e. 29.04.2014. In the year 2014, the child was more than 08 years of age. As of now, she is more than 11 years old. She is studying in a school. Salary of the father in February, 2014 was more than Rs.16,000/- per month. The child is growing and her needs and requirements are bound to grow with passage of time. Similarly, salary of the father would also increase. The father has an obligation to provide maintenance to the child only as the wife has been denied maintenance. There is nothing on record suggestive of the fact that the respondent has any other obligation to satisfy. The respondent is obligated to provide adequate maintenance to the petitioner.

Taking a view from the aforesaid facts and circumstances, it is expedient in the interest of justice that the petitioner is allowed maintenance @ Rs.4,000/- per month but the maintenance at this rate

shall be available from the date of decision by the revisional Court i.e. 05.01.2015. The petition stands disposed of with modification in the aforesaid terms.

17.05.2017
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No