

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

**CRM No.M-1759 of 2016
Decided on: 02.05.2017**

Shalani Devi

....Petitioner

Versus

Daljit Singh

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Naveen Sharma, Advocate,
for the petitioner.

Mr. Rajiv Joshi, Advocate
for the respondent.

REKHA MITTAL, J.

Shalani Devi, daughter of the respondent has approached this Court under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') for enhancement of maintenance by way of modification of order dated 17.08.2015 passed by the Additional Sessions Judge, Jalandhar.

A brief backdrop of this case is that mother of the petitioner was married to the respondent and out of their wedlock, petitioner was the only child born to the couple. Smt. Usha, mother of the petitioner performed second marriage with Santokh Singh. The petitioner is residing with her maternal grandparents as her mother is residing in her matrimonial home in view of her second marriage with Santokh Singh and has a family out of her second wedlock. The petitioner filed an application under Section 125 Cr.P.C. which was allowed vide order dated 12.11.2005 and maintenance was assessed @ Rs.500/- per month. In the year 2009, she filed an application under

Section 127 Cr.P.C. for enhancement of maintenance and the Additional Chief Judicial Magistrate, Jalandhar (hereinafter to be referred as 'the trial Court') allowed maintenance @ Rs.2,000/- per month from the date of order.

The revision petition preferred by the petitioner did not yield any fruitful results and the order passed by the trial Court was affirmed.

Still feeling dis-satisfied, the petitioner has approached this Court.

Counsel for the petitioner has submitted that the petitioner has attained the age of majority but she is entitled to get maintenance till she performs marriage. It is further submitted that the respondent did not appear in the witness-box to deny the allegations raised by the petitioner that he is working in U.K. and earning a handsome amount. It is further argued that the petitioner is pursuing further study and needs money for meeting expenses on her day to day needs as well as to face peer pressure.

Counsel for the respondent has submitted that the petitioner has failed to produce any convincing evidence on record that the respondent is residing in London much less earning over Rs.2,00,000/- per month. It is further argued that there is no material on record that any money much less substantial one is being spent on education of the petitioner.

I have heard counsel for the parties, perused the paperbook and the records.

Indisputably, the petitioner is the daughter of the

respondent born out of his wedlock with Smt. Usha daughter of Barkat Ram. Smt. Usha has performed marriage with one Santokh Singh after getting divorce by mutual consent vide judgment dated 14.12.1999. The petitioner has now attained the age of majority. Counsel for the respondent has not disputed that an unmarried daughter is entitled to get maintenance from her parents till she performs marriage. The petitioner has alleged that her father is residing in London and earning more than Rs.2,00,000/-. No doubt, the petitioner could not produce any evidence in regard to avocation or earning of her father. The respondent did not appear in the witness-box to say something with regard to his avocation and earning. He defended the proceedings through an attorney namely Sh. Mohan Lal, his father.

In reply to the application under section 127 Cr.P.C., it has been averred in para 8 of the preliminary objections that as the respondent is apprehending danger to his life at the hands of family of the maternal grandparents of the petitioner, as such, he is unable to come present personally to defend the petition and has already appointed his father namely Sh. Mohan Lal as his special attorney. However, in the special power of attorney executed by the respondent Ex.RW1/C, no such fact has been mentioned that the respondent has conceived any such apprehension in his mind. On the contrary, in para 1 of the document, it has been mentioned that the executant is unable to personally come present to pursue the said litigation.

Father of the respondent appeared in the witness-box and stated that the respondent is not living in a foreign country and is residing in India. In absence of any tangible materials on record, plea of

the respondent that he has danger to his life at the behest of maternal grandparents of the petitioner is highly misconceived and untenable. It appears to the Court that the respondent intentionally and malafidely kept himself away from the proceedings so that true facts with regard to his financial status do not come on record and he can escape his liability to pay adequate maintenance to his daughter.

Taking into consideration aforesaid conduct of the respondent coupled with needs of the child aged about 18 years along with that the petitioner is not supposed to file repeated applications for enhancement, it would be expedient in the interest of justice if the petitioner is allowed maintenance @ Rs.5,000/- per month from the date of filing of the application under Section 127 Cr.P.C.

In view of what has been discussed hereinabove, the petition is allowed in the aforesaid terms.

02.05.2017
yakub

(REKHA MITTAL)
JUDGE

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