

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M No. 19498 of 2014

Date of decision : May 19, 2017

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Satbir Kaur

.....Petitioner

Versus

Dalbir Singh Khalsa

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. S.S Sidhu, Advocate for the petitioner.

Mr. M.K Bhandari, Advocate for the respondents.

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RITU BAHRI, J.

Present petition has been filed under Section 482 Cr.P.C for seeking enhancement of the maintenance amount awarded to the petitioner under Section 125 Cr.P.C vide order dated 01.05.2013 passed by the Judicial Magistrate First Class, Patiala and against the order dated 2.4.2014 passed by the the Additional Sessions Judge, Patiala, whereby the revision of the petitioner seeking enhancement of the maintenance has been dismissed.

Briefly stated, the facts of the case are the marriage of the petitioner was solemnized with respondent-Dalbir Singh Khalsa on 28.10.1998 as per Sikh rites and ceremonies. Brother of the petitioner

namely Tejinder Singh spent more than ₹1.5 lacs on the marriage and gave sufficient dowry to the petitioner, but, respondent and his family members were not satisfied with the dowry articles. After six months of the marriage, the respondent and his elder sister demanded ₹1,00,000/- from the family of the petitioner. The brother of the petitioner somehow arranged ₹30,000/- and gave the same to the respondent in the month of June 1999. Thereafter, the behaviour of the respondent and his family members remained good towards the petitioner up to the month of December 1999. After some time, they started maltreating her again. In the month of September 2000, the respondent and his family members again demanded ₹70,000/- from the petitioner. She was given beatings and was turned out of the matrimonial home. The matter was again compromised with the intervention of the respectables and the petitioner went to her matrimonial home in the last week of February 2001. After some time again demand of money was made and when the petitioner refused to bring the same, she was again turned out of the house. The matter was finally taken up before the Gurudwara Committee Shri Guru Nanak Sangat, Ahmedabad on 13.5.2005. It is alleged that on 24.10.2005 at about 7 a.m when the petitioner was going to Gurudwara Sahib her brother in law Jagdeep Singh Sikka came there on a motor cycle. He abused her and threw acid on her face. An FIR under Section 498-A, 323, 326 and 114 IPC regarding this incident was lodged at Sabarmati Police Station in which the husband is also co-accused. An application was filed by the petitioner under Section 125 for grant of maintenance.

Upon notice of the application, the respondent appeared before

the trial Court and filed reply submitting that the petitioner is doing the job

of tailoring at Patiala and earning ₹5000/- per month. It is denied by the respondent that he is getting salary of ₹40,000/- per month. Rather he is getting only ₹15,000/- per month. Moreover, he has to maintain his old aged mother who is ailing and bed ridden.

In order to prove her case, petitioner herself stepped into witness box as PW-1 and proved on file her affidavit as Ex. PW1/A and examined her brother Tejinder Singh as PW-2 and then after tendering into evidence certain documents closed her evidence. Respondent examined himself as RW-1 and tendered into evidence his affidavit as Ex. RW1/A and also examined Mehtab Singh as RW-2. He proved on file his affidavit as Ex. RW2/A and then closed his evidence. Trial Court taking the income of the respondent-husband as ₹40,000/- per month gave a maintenance of ₹8,000/- per month to the petitioner and the revisional Court affirmed the aforesaid findings vide its order dated 2.4.2014.

Counsel for the petitioner has placed on record the copy of the salary slip of the respondent for the month of August 2012 (Annexure P-1). The petitioner appeared as AW-1 on 6.8.2010 and got recorded her statement (Annexure P-3) in examination in chief, in which it was specifically mentioned that respondent is working as Assistant Engineer ONGC and is getting salary of ₹82,000/- per month as per salary slip of June 2010.

Counsel for the petitioner has further referred to the order dated 2.7.2015 passed by this Court whereby a civil revision filed by the petitioner for enhancement of the interim maintenance awarded in matrimonial proceedings was disposed of taking the salary of the respondent as ₹1,20,000 and after doing the necessary deductions the net

salary was taken to be ₹75,000/-. Thereafter taking into consideration the gap of three years, the salary was taken to be ₹1,00,000/-, 1/3rd of the same was provided for maintenance payable to the petitioner. As such an amount of ₹25,000/- over and above the amount of ₹8,000 which was already awarded by the trial Court in proceedings under Section 125 Cr.P.C was directed to be paid by the respondent-husband to the petitioner-wife every month. The respondent has not gone in appeal against this order and thereafter withdrew his divorce petition. However, the fact with regard to his income of the year 2012 is not in dispute between the parties which was ₹1,20,000/-. Even as per Annexure P-1, as per the salary slip of August 2012, his net salary is ₹56,271 after total deductions.

Counsel for the petitioner has also got the salary slips for the months of March 2016, June 2016, September 2016 and December 2016 in which his net carry home salary varies from ₹34,000 to ₹68,000/-. Counsel for the petitioner has also placed on record Annexure A-6 collectively which is the statement showing particular of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof and the salary slips for the months of December 2011, January 2012, April 2013, December 2014, January 2016,

Counsel for the respondent has not placed on record any salary slip to dispute the documents placed on record by the petitioner. He has placed on record the salary slip for the month of February 2016 (Annexure R-2) to show that his carry home salary is only ₹63, 484 and the judgment dated 18.5.2016 (Annexure R-3) whereby the respondents have been acquitted while facing a trial under Sections 406, 498-A, 326, 323, 114 IPC.

After hearing counsel for the parties, the only question for

consideration before this Court is with regard to the enhancement of the maintenance. A perusal of order dated 2.7.2015 shows that the parties are not in dispute that the petitioner was an Executive in a Public undertaking and was drawing a salary of ₹1,20,000/- in the year 2012. After taking into consideration a gap of three years, his carry home salary was taken to be ₹1,00,000/-. Even if the carry home salary as per the documents placed on record i.e the salary slip for the month of February 2016 (Annexure R-2) has come down to ₹63,000/-, it is only an attempt to avoid making payment of maintenance. As per the documents placed on record (Annexures A-6 and A-7) his net pay was more than ₹1,00,000/- The maintenance awarded by the trial Court was ₹8000/- per month which is on the lower side and keeping in view the earlier order passed in the civil revision by this Court where ₹25,000/- over and above the amount of maintenance of ₹8000 was directed to be paid by the husband to the wife, this petition is allowed.

In view of all that has been discussed above and taking the income of the respondent as about ₹1,00,000/- per month, 1/3rd of the same i.e ₹33,000 per month is awarded as the maintenance payable to the petitioner.

May 19, 2017

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No