

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

CRM No. M 36326 of 2016

Date of decision: 14.03.2017

Iqbal Singh

..... Petitioner.

Versus

Veer Pal Kaur

..... Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. K.B.S. Mann, Advocate for the petitioner.

Mr. Rajinder Singh Rangpuri, Advocate, for the respondent

LISA GILL, J.

The petitioner is aggrieved of order dated 30.08.2013 (Annexure P-1) passed by the learned Sessions Judge, Sri Muktsar Sahib, as the maintenance amount assessed by the learned trial Court has been enhanced by the revisional Court, without issuing any notice to the petitioner. The petitioner is also aggrieved of the consequential execution proceedings initiated against him on the basis of this order.

Learned counsel for the petitioner submits that the learned revisional Court has dispensed with the service of the petitioner solely on the ground that he was proceeded against ex parte before the learned trial Court. The amount of maintenance granted by the learned trial Court was thereafter enhanced to the detriment of the petitioner without affording him an opportunity of hearing. The amount of maintenance was enhanced from Rs. 2,000/- to Rs. 5,000/- Therefore, there is a clear violation of the provisions of Section 401 (2) of the Cr.P.C.

It is submitted that the petitioner undertakes to regularly pay the maintenance amount as fixed by the learned Judicial Magistrate 1st Class, Malout vide order dated 04.01.2013. He also undertakes to appear

before the learned revisional Court, in case the matter is remanded for a fresh decision, after hearing both the parties on merits.

The factual position as above regarding the service of the present petitioner being dispensed with by the learned revisional Court only on the ground that he was proceeded against ex parte before the learned trial Court is not in dispute. It is informed by the learned counsel for the respondent that the entire arrears of maintenance were cleared by the petitioner up to 15.10.2016. Learned counsel for the respondent submits that the petitioner has not deposited the maintenance amount thereafter.

Heard learned counsel for the parties. The factual position in this case is not in dispute.

In view of the facts and circumstances of the case, order dated 30.08.2013 (Annexure P-1) is set aside and the matter is remanded back to the learned revisional Court, Sri Muktsar Sahib to decide the matter afresh in accordance with law, regarding enhancement of the amount of maintenance assessed by the learned trial Court, after giving both the parties an opportunity of hearing.

The parties are directed to appear before the learned revisional Court, Sri Muktsar Sahib on 27.03.2017. In the meantime, the petitioner shall regularly pay the amount of maintenance assessed by the learned trial court on 04.01.2013. Arrears, if any as on date shall be cleared by 27.03.2017.

This petition is, accordingly, disposed of.

(LISA GILL)
JUDGE

14.03.2017

PA

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