

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

CRM-M No.44265 of 2015(O&M)

Date of decision: 18.4.2017

Pooja and another

....Petitioners

VERSUS

Deepak

.....Respondent

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Sourabh Arora, Advocate for the petitioners.

Mr. Mohinder Kumar, Advocate for the respondent.

REKHA MITTAL, J.

The petitioners have invoked Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') for modification of order dated 18.11.2015 passed by the Additional Sessions Judge, Amritsar whereby revision petition preferred by the petitioner was partly allowed while modifying the order dated 20.07.2015 passed by the Judicial Magistrate Ist Class, Amritsar (hereinafter to be referred as 'trial Court').

Counsel for the petitioners has submitted that maintenance assessed by the Court below to the tune of Rs.1,000/- per month to each of the petitioners is not sufficient to meet their daily requirements of food what to talk of clothing, housing and education of the child born on 18.11.2013. It is further submitted that the respondent produced a certificate in regard to his salary at the rate of Rs.4,000/- per month purported to be issued by Delhi Rajasthan Transport Co. Limited but in the said certificate, it has been specifically mentioned that the letter is issued on the specific request of the employee without accepting any liability on

behalf of this letter or part of this letter on the company. It is further submitted that the respondent is a young man and even if his income is assessed on the basis of minimum wage admissible to a casual worker, the same cannot be less than Rs.7000/- to 8000/- per month.

Counsel for the respondent, on the contrary, would urge that it is a matter of evidence yet to be adduced by the parties if the certificate (Annexure P-3) is not worthy of credence or reliance. Further submitted that as the respondent is getting monthly salary of Rs.4,000/- from Delhi Rajasthan Transport Co. Ltd., maintenance assessed by the Revisional Court at the rate of Rs.2,000/- per month (Rs.1,000/- per month for each of the petitioners) does not call for intervention.

I have heard counsel for the parties and perused the paper-book with their valuable assistance.

Be that as it may, marriage of Pooja – petitioner No.1 was performed with respondent on 13.04.2012 and out of the wedlock, a son was born in the year 2013 and the child is admittedly residing with the mother. The trial Court assessed interim maintenance at the rate of Rs.1,000/- per month for the wife and Rs.500/- per month for the child from the date of order i.e. 20.07.2015. The order passed by the trial Court was modified by the Revisional Court allowing maintenance to each of the petitioners at the rate of Rs.1,000/- per month from the date of application i.e. 12.02.2015. It is undenied that the respondent has relied upon the certificate (Annexure P-3) in regard to his salary as a Godown Keeper on contractual basis at the rate of Rs.4,000/- per month. Perusal of the certificate (Annexure P-3) would substantiate plea of the petitioners that the employer has disowned its liability on the basis of this letter with a

specific recital that the letter has been issued on the request of employee. There is nothing on record suggestive of the fact that the respondent – husband is suffering from any ailment rendering him unable to work and earn adequate livelihood for his family. The provisions of Section 125 Cr.P.C. are a benevolent social legislation meant for providing immediate succor to the wife, minor children and parents who are neglected to be maintained. As has been rightly argued by counsel for the petitioners even if we take into consideration the minimum wages available to a daily wager, income of the respondent cannot be less than Rs.6000/- to 7000/- per month. Taking into consideration prices of daily necessities of life, needs of the petitioners and income of the respondent, in my considered opinion, interest of justice would be served if maintenance assessed by the revisional Court is enhanced to the extent of Rs.1,500/- per month for petitioner No.1 and Rs.1,250/- per month for petitioner No.2 from the date of application i.e. 12.02.2015.

For the foregoing reasons, the order passed by the revisional Court is modified in the aforesaid terms. However, nothing stated hereinabove shall cause prejudice to either of the parties at the time of final disposal of the case.

APRIL 18, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no