

**CRR (F) No. 26 of 2016 and
CRR (F) No. 8 of 2016**

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR (F) No. 26 of 2016
Date of decision : 13-01-2017

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Meenu and others

.....Petitioners

Versus

Krishan Deshwal

.....Respondent

CRR (F) No. 8 of 2016
Date of decision :

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Krishan Deshwal

.....Petitioner

Versus

Meenu and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. R.S Kundu, Advocate for the petitioners.
(For the respondents in CRR (F) No. 8 of 2016)

Mr. Rakesh Nehra, Advocate for the respondent.
(For the petitioner in CRR (F) No. 8 of 2016)

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RITU BAHRI, J.

By way of this common judgment two revision petitions i.e
CRR No. (F) 26 of 2016 titled, 'Meenu and others vs. Krishan Deshwal' and
CRR No. (F) 8 of 2016 titled, 'Krishan Deshwal vs. Meenu and others' shall

stand disposed of. Both the revision petitions have been filed against the judgment dated 20.11.2015 passed by the District Judge, Family Court, Rohtak, whereby petition under Section 125 Cr.P.C for grant of maintenance allowance filed by Meenu wife of Krishan Deshwal and Yashika and Aman, their minor children was allowed and Meenu and Yashika were granted maintenance @ Rs. 15,000 per month and Rs.2,500/- per month respectively from the date of filing the petition. However, Aman minor son was granted maintenance @ Rs.2500/- from the date of his birth.

Marriage of Krishan Deshwal and Meenu was solemnized on 8.7.2003 at Rohtak as per Hindu rites and ceremonies. Two children, Yashika and Aman were born out of this wedlock, The grievance of Meenu was that after her husband was selected as Sub Inspector in CISF, he started misbehaving with her and demand of a car was made by her father- in-law Ishwar Singh and brother-in-law Sri Bhagwan. She was harassed and tortured on account of demand of dowry. Her husband and in-laws also misbehaved with her at the time of birth of her daughter on the pretext of giving birth to a female child. In April 2007, she was turned out of her matrimonial house by her husband and in-laws. She lived at her parental home till May 2008. In May 2008, her father-in-law came to her parental house at Rohtak and took her with him but behaviour of her husband and other family members did not change. They continued to harass and beat her. In March 2009, her husband gave her merciless beatings and left her at her parental home at Rohtak. She again came back to her matrimonial home after some time. Her father requested her in laws to keep her peacefully and assured to fulfill their demands.

In 2010, when Meenu was pregnant, her husband and in-laws

again gave her merciless beatings and turned her out of the matrimonial home along with her daughter. She came to her parental home where she got medical treatment from Dr. Jain. All the expenses were borne by her parents.

Meenu also got lodged FIR No.226 dated 25.8.2010 under Sections 498-A, 406, 506 IPC at Police Station Shivaji Colony, Rohtak against Krishan Deshwal and his family members which was pending.

Meenu along with her minor children namely, Yashika and Aman filed a petition under Section 125 Cr.P.C for grant of maintenance allowance. In reply to this petition, the relationship between the parties was not disputed. However, it was denied that a huge amount was spent on their marriage. It was stated that in fact, marriage of the parties was solemnized in a simple manner and that husband of Meenu, Krishan Deshwal and her in-laws never misbehaved with her after his selection in CISF.

With regard to the income of Krishan Deshwal, it was stated that he was earning more than ₹38,000/- and was having more than 45 bighas of agricultural land at village Jethpur. His mother was having 90 bighas of agricultural land in her name in village Jethpur and after her death, 45 bighas land fell in the share of Krishan Deshwal. He had other plots and houses in the village. In a divorce petition filed by him against her, he was directed to pay her maintenance @ ₹15,000 per month and litigation expenses to the tune of 11,000/-. However, that petition was dismissed on 27.3.2014. Krishan Deswal in his cross-examination admitted that his gross salary is ₹48,947/-. He also admitted that he inherited 40 bighas of agricultural land from his mother, however, he transferred the same in favour of his sisters on 21.11.2014 during the pendency of the

petition filed by his wife for grant of maintenance. Taking his salary as ₹48,947/-, Rs. 15,000/- per month has been awarded to Meenu and Rs.2500/- to each of the minor child by the District Judge, Family Court Rohtak vide its order dated 20.11.2015.

Vide order dated 23.9.2016, parties were directed to be present in the Court. However, today when the case is being taken up for the final disposal, none of the parties is present in the Court.

Learned counsel for Meenu, Mr. Rakesh Nehra states that even as per the maintenance order, Krishan Deshwal has to pay ₹12, 67,500/- but he has only paid ₹6,30,000/- till date. He had admitted that after the death of his mother, he has inherited 48 bighas of land which he transferred in favour of his sisters during the pendency of the petition of maintenance filed by Meenu. This shows that he made an attempt to deprive his children of their legitimate right of maintenance.

Meenu filed an affidavit in **CRR No. (F) 8 of 2016 titled, 'Krishan Deshwal vs. Meenu and others'**, in which it has been explained that she had appeared in Central Teachers Eligibility Test held in November 2012, July 2013 and February 2014 but could not clear the said examination. Photocopy of the admit card of the 2012 to 2014(Annexures R-1 to R-3) have been enclosed with the affidavit. She has further given the details of the fee which is being paid by her for the education of her children. Photocopies of admission fee receipts (Annexures R-4 and R-5 colly) have also been enclosed with the affidavit. She has also placed on record Case No.429 of 2016 dated 11.4.2016 against the judgment and order dated 17.3.2016 in case FIR No.226 dated 25.8.2010 under Sections 498-A, 406, 506 IPC at Police Station Shivaji Colony Rohtak passed by JMIC,

Rohtak whereby Krishan Deshwal and others have been acquitted. She has also stated in the affidavit that there is balance of ₹6,67,500/- of arrears of maintenance due to her and two minor children. An application was moved by Krishan Deshwal before the District Judge Family Court, Rohtak for exemption of recovery of maintenance amount from the subsistence allowance as per the fundamental rules of Central Government. This application was dismissed vide order dated 13.8.2015. While dismissing this application, it was observed that the applicant earns handsome amount from his 48 bighas agricultural land situated at Village Jethpur and after reinstatement, he must have received his salary after adding necessary increments and other allowances as per Rules and for being suspended w.e.f 26.8.2010 to 4.3.2011, exemption for grant of maintenance amount cannot be granted. Meenu has filed an appeal against the judgment of acquittal dated 17.3.2016. Counsel for Meenu has placed on record the salary slip of December 2016 of Krishan Deshwal as per which, his net salary was ₹56,561/- . At the same time, he has also referred to the salary slip of June 2015, as per which his net salary was ₹28,510/- and which has been made basis for calculating maintenance awarded to Meenu and their two minor children.

After hearing counsel for the parties, the question for consideration in both the revisions is whether the maintenance awarded dated 20.11.2015 is on the higher side or requires to be enhanced. The fact is not in dispute that the petitioner has inherited 48 bighas of agricultural land at Village Jethpur after the death of his mother. However, he transferred the same in favour of his sisters during the pendency of litigation between husband and wife just to avoid his liability to pay maintenance to

his wife and children. Therefore, he is getting income from his land apart from his salary from CISF. Without making any attempt to calculate the income from this land, this Court is of the view that the maintenance granted to both the minor children i.e Rs.2500/- per month is on the lower side. Keeping in view his take home salary, the maintenance awarded to the children is being enhanced to ₹5000/- per month i.e to Yashika from the date of filing of the petition and ₹5000/- per month to Aman from the date of his birth. However, there shall be no change in the amount of maintenance awarded to the wife. This amount shall be paid after adjusting the amount already received during the pendency of this petition.

In view of all that has been discussed above, both the revision petitions are being disposed of as being modified as above.

13.01.2017

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**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No