

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

Crl. Revn. No. F-274 of 2016

Date of decision:- 31.01.2017

Vipin Jain

...Petitioner

versus

Anita Jain

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms Amrita Nagpal, Advocate for
Mr. Sharad Aggarwal, Advocate
for the petitioner.

Mr. Ram Pal Verma, Advocate
for the respondent

RITU BAHRI J.(Oral)

Challenge in the present petition is to the orders dated
22.04.2016 and 01.08.2016 passed by the Family Court below.

Heard learned counsel for the parties.

Vide order dated 01.08.2016, the application moved by the
petitioner was dismissed for recalling order dated 22.04.2016 whereby the
defence of the petitioner was struck down on account of his non-appearance
and non-payment of litigation expenses @Rs.2200/-. Instead of deciding the
application moved by the petitioner, the learned Court below proceeded
with the evidence of the respondent/wife and decided the main petition
under Section 125 Cr.P.C. The petitioner was held liable to pay maintenance
@Rs.4000/- per month from the date of filing of the petition to the
respondents.

Learned counsel submits that the petitioner could not reach
Court on time on 22.04.2016, as he got stuck in the traffic jam. Learned
counsel submits that the petitioner is working as a helper at a cloth shop

and is earning Rs.8000/- per month and thus the maintenance awarded to the wife @ Rs.4000/- per month is on the higher side. Before passing the final order, the relevant evidence is required to be led by the petitioner with regard to his income.

In view of the above, order dated 22.04.2016 and 01.08.2016 are hereby set aside and the instant petition is ***allowed*** and the matter is remanded back to the trial Court. A direction is given to the trial Court to give two effective opportunities to the petitioner to conclude his evidence and thereafter pass final order on merits.

January 31, 2017
G Arora

(***RITU BAHRI***)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>