

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

CRR(F) No. 5 of 2016(O&M)

Date of decision: 17.1.2017

Thakur Dass

....Petitioner

VERSUS

Damyanti

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ashwani Bhardwaj, Advocate for the petitioner.

None for the respondent.

REKHA MITTAL, J.

The present petition directs challenge against order dated 13.10.2015 passed by the District Judge, Family Court, Faridabad whereby petition filed under Section 127 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') for reduction of maintenance has been dismissed.

The facts relevant for disposal of the present petition are that Smt. Damyanti wife of Sh. Thakur Dass filed a petition under Section 125 Cr.P.C. that came to be decided by the trial Court on 20.07.2010 and the petitioner-husband was directed to pay maintenance to the respondent-wife at the rate of Rs.4,000/- per month. The present petition was filed on the premise that at the time of decision in the petition under Section 125 Cr.P.C., monthly income of the petitioner was Rs.17,422/- and his carry home salary was Rs.9,322/-. The petitioner retired from Escorts Tractors Ltd. Company on 31.10.2012. After retirement, his pension was fixed at Rs.1,947/- per month from November 2012. In the month of March 2013,

arrears of pension at the rate of Rs.1,947/- per month were credited in account of the petitioner i.e. Rs.9,800/- including interest on the arrears.

Counsel for the petitioner, in line with the averments raised in the petition, reiterated by the petitioner in his testimony by way of affidavit Ex.PW1/A, has submitted that as the petitioner has lost his salary due to his retirement and his pension is fixed at Rs.1,947/- per month, maintenance awarded in the proceedings under Section 125 Cr.P.C. is liable to be reduced to the extent of Rs.300/- per month. It is further argued that the Court below has taken an unreasonable view by rejecting his plea resulting in huge financial burden upon the petitioner qua payment of maintenance at the rate of Rs.4,000/- per month despite having no source to discharge his liability.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

The trial Court has noticed that after his retirement, the petitioner enrolled himself as an advocate with the District Bar, Faridabad. Being a husband, he has a legal obligation to pay maintenance to his wife. Even if the petitioner has retired from his earlier service, he is not rendered incapacitated to work and earn livelihood for his family and provide adequate maintenance to his wife.

Counsel for the petitioner has not disputed that after his retirement, the petitioner joined the District Bar as an advocate. An amount of Rs.4,000/- per month awarded in the proceedings under Section 125 Cr.P.C. may not be sufficient to provide for day to day needs of the respondent what to talk of making provision for housing much less comforts and luxuries. If plea of the petitioner is accepted that

maintenance is liable to be reduced and that too to the tune of Rs.300/- per month, it would amount to reducing the respondent to vagrancy and starvation.

For the foregoing reasons, the petition fails and is accordingly dismissed.

JANUARY 17, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

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