

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

**CRR(F) No.97 of 2016 (O&M)
Decided on: 15.05.2017**

Jasmeet Kaur and others

....Petitioners

Versus

Manjit Singh

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Avnish Mittal, Advocate for the petitioners.

Mr. Arvind Thakur, Advocate for the respondent.

REKHA MITTAL, J.

CRM No.10386 of 2016

Heard.

Allowed as prayed for.

Annexures P1 to P6 are taken on record subject to just exceptions.

Disposed of accordingly.

CRM No.13346 of 2016

Heard.

Allowed as prayed for.

Annexures P7 to P11(Colly.) are taken on record subject to just exceptions.

Disposed of accordingly.

CRR(F) No.97 of 2016 (O&M)

The petitioners have approached this Court for modification of order dated 22.12.2015 passed by the District Judge (Family Court) Ambala whereby the petitioners have been allowed

maintenance @ Rs.12,000/- per month i.e. Rs.5,000/- to petitioner – wife and 3,500/- each to the children from the date of filing application under Section 125 of the Code of Criminal Procedure (in short 'Cr.P.C.'). In addition, the respondent has been directed to pay litigation expenses to the tune of Rs.4,000/-.

The sole submission made by counsel for the petitioners is that the maintenance assessed by the Court below is not sufficient to meet daily requirements of the petitioners what to talk of providing for education of the children aged 09 and 08 years respectively much less to satisfy their requirements for housing, clothing, comforts and luxuries. It is further argued that the trial Court in para 8 of the judgment has noticed that as per salary statement of the respondent for December, 2014, his carry home salary is Rs.43,471/-. Respondent admitted his salary to be Rs.44,527/-. According to counsel, maintenance assessed is not commensurate to income of the respondent though otherwise his salary must have increased after the 7th Pay Commission. In addition, it is argued that salary of the respondent is bound to increase with passage of each year as he would be entitled to increase in Dearness Allowance and annual increment granted as per rules.

Another submission made by counsel is that as per the documentary evidence produced on record, monthly school fee of petitioner Prabhjot Singh is Rs.1,850/- and 2,240/- of Mehakdeep Kaur. Mehakdeep Kaur is suffering from congenital problem, reflected in medical records Mark A and B, therefore, additional money is required for her treatment. It is argued with vehemence that maintenance can

neither be penury nor restricted to needs of food and clothing only. The last submission made by counsel is that in the given scenario, maintenance assessed by the Court below is liable to be enhanced.

Counsel for the respondent, on the contrary, would urge that the petitioners, at best, can be allowed maintenance to the extent of 1/3rd of income of the respondent, therefore, there is no scope for enhancement of maintenance. It is further argued that the Court below has taken a very reasonable view of the matter in right perspective, thus, intervention in exercise of revisional jurisdiction is not warranted.

I have heard counsel for the parties, perused the paperbook with able assistance rendered by counsel for the parties.

Before adverting to the submissions made by counsel for the parties, it is pertinent to mention that provisions of Section 125 Cr.P.C. are aimed at providing succor to a destitute wife, neglected children and parents by following a summary procedure. The petitioners are entitled to adequate maintenance to be provided by the respondent. As per the settled position in law, the wife is entitled to enjoy the same amenities of life as she would have been had she been residing in the matrimonial home.

Reverting to the case at hand, indisputably, the petitioner – wife along with two children born out of the wedlock is residing separately from her husband. Counsel for the respondent has not disputed with regard to monthly school fee of both the children and the fact that Mehakdeep Kaur, younger child of the parties is suffering from congenital medical problem. Counsel for the respondent has also not made any submissions that as per salary statement for the month of

December, 2014, carry home salary of the respondent was Rs.43,471/-. The respondent is working as an Engineer in Construction Department Punjabi University, Patiala. The respondent – mother needs money to satisfy needs of the children who are growing and getting education. The respondent has an obligation to provide adequate maintenance to his wife and children. The Court can take judicial note of the fact that salary of the respondent is bound to increase with passage of time and so also needs of the children. The petitioners are not supposed to file another petition seeking enhancement at a short interval though they would be legally entitled to seek enhancement under changed circumstances by invoking Section 127 Cr.P.C.

Taking a cumulative view of the facts and circumstances of the case, it is expedient in the interest of justice that the petitioners are allowed maintenance more than what has been awarded by the Court below. In view of the above, respondent – wife is allowed maintenance @ Rs.7,500/- per month and Rs.5,000/- per month each for the children but benefit of enhanced maintenance shall be available to the petitioners w.e.f. 22.12.2015, the date on which the petition was disposed of by the Family Court.

For foregoing reasons, the petition is partly allowed in the aforesaid terms, leaving the parties to bear their own costs.

15.05.2017
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(REKHA MITTAL)
JUDGE

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