

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

**CRM-M-19274-2016(O&M)
Date of decision:-13.9.2018**

Ruchi

...Petitioner

Versus

Amit Kumar

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Ms.Karamjot Kaur, Advocate for
Mr.Rajesh Kapila, Advocate
for the petitioner.

None for the respondent.

H.S. MADAAN, J.

Petitioner Ruchi has filed the present petition under Section 482 Cr.P.C. seeking modification of order dated 19.4.2016 passed by Additional Sessions Judge, Gurdaspur seeking enhancement of the maintenance awarded to her payable by her husband Amit Kumar – respondent.

Briefly stated, the facts of the case are that the petitioner Ruchi had brought a petition under Section 125 Cr.P.C. against her husband - Amit Kumar claiming monthly maintenance allowance, which was accepted by Judicial Magistrate Ist Class, Gurdaspur and monthly

maintenance allowance at the rate of Rs.2,000/- per month was granted to the petitioner payable by the respondent from the date of filing the petition.

The petitioner was dissatisfied with the quantum of the maintenance so awarded to her, as such, she challenged the said order by way of filing a revision petition, which was assigned to learned Additional Sessions Judge, Gurdaspur, who accepted the revision petition and set aside/modified the order passed by Judicial Magistrate Ist Class, Gurdaspur and granted maintenance @ Rs.3,500/- per month to the petitioner with effect from the date of filing of the petition.

Feeling that the revisional Court even had not granted adequate monthly maintenance allowance to her, the petitioner has approached this Court by way of filing the present petition.

I have heard learned counsel for the petitioner besides going through the record.

Both the Courts below on the basis of evidence have come to the conclusion that respondent having sufficient means has neglected and refused to maintain his wife, the petitioner, who is unable to maintain herself. The trial Magistrate found that though according to the petitioner, respondent is earning Rs.30,000/- per month from the business of artificial jewellery, which fact though was denied by the respondent, the petitioner had not brought on record any document to suggest the income of respondent, but respondent being an able bodied person must be earning sufficient income even by doing labour and his income was taken to be Rs.10,000/- per month and maintenance @ Rs.2,000/- per month was awarded observing that the petitioner had

already been granted Rs.3,000/- as maintenance per month in an application under Protection of Women from Domestic Violence Act, 2005 decided on 8.9.2015.

Learned Additional Sessions Judge, Gurdaspur had enhanced the maintenance to Rs.3,500/- per month.

However, I find that the grouse of the petitioner wife is justified. In this time of high prices when things of even basic needs are very costly, it is very difficult to make both ends meet with a meagre amount of Rs.3,500/- per month. A human being besides requiring three meals a day does need clothing and has to incur expenditure on account of health needs, transportation, electricity etc. However, the maintenance is to be granted as per income/earning capacity of the husband. A perusal of the record goes to show that Amit Kumar, husband appearing as RW1 in the trial Court had furnished his affidavit Ex.RW1/A. In the affidavit in para No.5, he had stated that he is not in business of selling jewellery of his own, rather he is working with his father and elder brother; that he is not earning regularly, rather on an average manages to earn Rs.5,000/- per month. From such assertions, it comes out that he has joint business of selling artificial jewellery along with his father and elder brother. He has tried to suppress his income intentionally so as to avoid payment of more money to the petitioner as maintenance. A perusal of cross-examination of respondent Amit Kumar goes to show that he admitted that petitioner Ruchi is not doing any work and is dependent upon her mother. He admitted that his brother Lalit had brought a Swift Dezire car. In his cross-examination, he has admitted that he had placed a matrimonial advertisement in the

newspaper, copy of which being Ex.PX. A perusal of this document goes to show that therein it was mentioned that the intended groom i.e. the respondent was having his own business with good income. Now-a-days even a manual labour manages to earn Rs.400/- to Rs.500/- per day. The income of respondent would be much more. He is liable to maintain his wife, who is enable to maintain herself. I find it proper and appropriate to take his monthly income in the range of at least Rs.15,000/- to Rs.20,000/- per month. He is not shown to have any other liability. The wife is entitled to have the same living standard as that of a husband. Keeping in view the facts and circumstances, I find that the maintenance granted @ Rs.3,500/- per month needs to be enhanced. Therefore, the monthly allowance granted to the petitioner by Additional Sessions Judge, Gurdaspur is enhanced to Rs.6,000/- per month from the date of order passed by learned Additional Sessions Judge, Gurdaspur.

The petition stands allowed accordingly.

13.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No