

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-31291 of 2016
Date of Decision: 26.2.2018**

Deepak Kumar

.....Petitioner

Versus

Archana and others

....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Devender Arya, Advocate
for the respondents.

ANITA CHAUDHRY, J

The petitioner has assailed the order dated 3.2.2016 (Annexure P-1) passed by the Additional Sessions Judge, Narnaul and the order dated 14.12.2015 passed by the Judicial Magistrate Ist Class, Narnaul (Annexure P-2) on the application seeking interim maintenance.

Archana was married to Deepak Kumar in 2006. They had two children. They lived together for almost seven years. The wife had alleged that she was beaten and tortured and she was forced to live with her parents and she was unable to maintain herself. A petition seeking maintenance was filed in 2015. It was claimed that the husband was a driver with Chandigarh Transport Undertaking.

The husband had pleaded that the wife was forcibly keeping the children with herself and she was not able to raise them properly. It was denied that he was earning Rs. 30,000/- per month. It was pleaded that she had left of her own and he had filed a petition under Section 9 for

Restitution of Conjugal Rights. It was pleaded that he was earning Rs. 18,000/- per month and had taken an accommodation on rent in Chandigarh and his wife was appointed in the office of the Tehsildar on D.C. rates and was earning Rs. 10,000/- per month and she was also doing stitching work and had some income from it.

The trial Court noted that the husband was getting net salary of Rs. 20,233/- per month whereas the wife was earning Rs. 9,880/- per month and awarded Rs. 4,000/- each as interim maintenance for both the children. No amount was allowed to the wife.

Aggrieved by the order, the husband filed a revision petition which was dismissed by the Additional Sessions Judge.

I have heard both the sides.

Counsel for the petitioner contends that he had been asked to clear the arrears @ Rs. 6000/- per month which he has done. It was urged that the wife was not entitled to any maintenance on two grounds, firstly that she had gone on her own without any reasonable cause and secondly she was earning herself. It was contended that it was not possible to pay any amount beyond Rs. 6,000/- per month and he was ready to pay for his children. It was contended that he was paying rent and a sum of Rs. 2,20,000/- has been paid till now. It was urged that he needs amount for himself and his take home salary is around Rs. 18,000/- per month.

The submission on behalf of the respondents is that the salaries have increased and the wife is not working and the amount allowed by the Court below is not exorbitant considering the prices these days.

The wife has not challenged the order passed by both the Courts below. Therefore, her prayer for maintenance for herself cannot be

considered. The maintenance was claimed from 2015, the income the husband was earning at that point of time is to be considered. There is a salary certificate of March 2016 available on record according to which, the basic salary of the husband is Rs. 9880/- and the total salary is Rs. 24,543/- per month which includes HRA, washing allowance and mobile allowance. There is a deduction of Rs. 5361/- on account of GIS, NPS and LIC and the take home salary is a little over Rs. 19000/-. The salary which the petitioner would have got in the previous year would be around Rs. 18,000/- per month. The husband has taken a house on rent and he would have to spend some amount to arrange for a person to do the household chores, make food. Considering the high rents in Chandigarh substantial amount would go out of his income. Therefore, I feel that for the present till the parties are able to lead their evidence, a sum of Rs. 3,000/- each would be appropriate for both the children. Both the children are very small. The wife will have to show the amount she was spending on the education of the children when called upon to lead evidence.

The interim order is modified. The amount allowed for the children is reduced to Rs. 3,000/- each.

The petition is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 26, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No