

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

**CRM-M-47378-2017 (O&M)
Date of Decision : 24.01.2018**

Yogesh Kohli. ... Petitioner

VERSUS

Shilpa. Respondent

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Ms. Shikha Khullar, Advocate
for the petitioner.

B.S.Walia, J.,

1. Prayer in this petition under Section 482 Cr.P.C. is for quashing of order dated 10.11.2017 i.e. Annexure P-1 passed by the learned Addl. Sessions Judge, Ludhiana in Revision Petition No.282 of 2017 dated 10.11.2017 in case titled as 'Yogesh Kohli versus Shilpa enhancing maintenance granted to the respondent from Rs.1500/- to Rs.3000/- per month as also for quashing order dated 21.02.201 i.e. Annexure P-2 passed by the learned Judicial Magistrate 1st Class, Ludhiana under Section 125 Cr.P.C. in case titled as Shilpa versus Yogesh Kohli, vide which the respondent herein was granted maintenance of Rs.1500/- per month over and above maintenance of Rs.4000/- per month granted under the Protection of Women from Domestic Violence Act, 2005.

2. Learned counsel contends that Rs.4000/- was awarded to the respondent under the Protection of Women from Domestic Violence Act, 2005, whereafter, on an application under Section 125 Cr.P.C., the

respondent was awarded a sum of Rs.1500/- per month. Revision petition filed by the petitioner was dismissed while the revision petition filed by the respondent was allowed by the learned Addl. Sessions Judge, Ludhiana, vide common order dated 10.11.2017 and maintenance of Rs.1500/- awarded under Section 125 Cr.P.C. was enhanced to Rs.3000/- per month. Learned counsel contends that the award of maintenance under Section 125 Cr.P.C. is legally unsustainable on account of respondent already having been granted monetary relief under Section 20 of the Protection of Women from Domestic Violence Act, 2005. Secondly that the maintenance of Rs.1500/- awarded under Section 125 Cr.P.C. has been erroneously enhanced to Rs.3000/- per month without taking into account that the petitioner was working as a helper at a Video Mixing Centre and was earning Rs.3500/- only per month.

3. On query, learned counsel conceded that the award of monetary relief of Rs.4000/- per month under the Protection of Women from Domestic Violence Act, 2005 has not been challenged by the petitioner, and has attained finality.

4. In the aforementioned background, the stand of the petitioner that he is having monthly income of Rs.3500/- only is factually incorrect. Had the income been as claimed, the petitioner would have certainly challenged award of Rs. 4000/- per month as monetary relief under the Protection of Women from Domestic Violence Act, 2005. The second plea i.e. that maintenance under Section 125 Cr.P.C. cannot be awarded in addition to monetary relief awarded under the Protection of Women from Domestic Violence Act, 2005 is equally without merit in view of the decision of the

Hon'ble Supreme Court in **Juveria Abdul Majid Patni versus Atif Iqbal Mansoori and another, 2014 (5) Recent Apex Judgments (RAJ) 531**, wherein it has been held that an application claiming monetary relief under Section 20 of the Protection of Women from Domestic Violence Act, 2005 is different from maintenance, and monetary relief under Section 20 of the Protection of Women from Domestic Violence Act, 2005 can be in addition to an order of maintenance under Section 125 Cr.P.C. Relevant extract of the aforesaid decision is reproduced as under :-

“The Monetary relief as stipulated under Section 20 is different from maintenance, which can be in addition to an order of maintenance under Section 125 of the Cr.P.C. or any other law. Such monetary relief can be granted to meet the expenses incurred and losses suffered by the aggrieved person and child of the aggrieved person as a result of the domestic violence, which is not dependent on the question whether the aggrieved person, on the date of filing of the application under Section 12 is in a domestic relationship with the respondent.”

5. Accordingly, the plea that maintenance under Section 125 Cr.P.C. could not have been awarded in addition to the monetary relief awarded under Section 20 of the Protection of Women from Domestic Violence Act, 2005 is without merit. As regards the plea that maintenance under Section 125 Cr.P.C. has been enhanced from Rs. 1500/- to Rs.3000/- per month without taking into account that the petitioner is working as a helper and is not the owner of the studio, suffice it to say that in the absence of denial by the petitioner of his earning Rs. 60,000/- from Chowki Jai Baba Peer Ji Samadh and the Addl. Sessions Judge, Ludhiana treating the said allegations as having been admitted, accordingly enhancing the maintenance from Rs.1500/- to Rs.3000/- per month in addition to the sum of Rs.4000/- per month awarded under the Protection of Women from

Domestic Violence Act, 2005, the plea that enhancement was without taking into account that the petitioner was working as a helper and was not owner of the studio is meaningless.

6. In the light of the position as noted above, I am of the view that learned counsel has not been able to point out any circumstances warranting interference with the well reasoned order passed by the learned Addl. Sessions Judge, Ludhiana. Accordingly, finding no merit in the petition, the same is dismissed in limine with no order as to costs.

(B.S.WALIA)
JUDGE

24.01.2018
rajesh.k.khurana

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