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

Crl. Misc. No.M- 49945 of 2017
Date of decision : 24.07.2018

Sumita

......Petitioner(s)

Versus

Sqn. Ldr. Pankaj Bhati and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner.

****

ANITA CHAUDHRY, J.

This is a petition by the wife seeking modification of the order passed by both the Courts below. She is aggrieved as the interim maintenance allowed to her is on the lower side.

I have heard the counsel for the petitioner.

The petitioner had been asked to place on record the salary certificate of 2015 as interim maintenance had been allowed to the petitioner from the date of the order. The salary certificate of 2017 could not have been considered.

Counsel for the petitioner contends that they had received information under the R.T.I. Act and in 2017 the income of the respondent was over Rs.1 lac while in July 2015 the gross income was over Rs.90,000/-.

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The counsel says that the petitioner was allowed Rs.12,000/- per month by the Magistrate, which was enhanced to Rs.25,000/- per month by the Additional Sessions Judge.

A complaint under the Domestic Violence Act had been filed and the Magistrate noted the gross salary as Rs.90,000/- per month and after deductions he was drawing salary of Rs.40,000/- per month and allowed Rs.10,000/- per month as interim maintenance. Aggrieved by the order, an appeal was preferred. The petitioner had produced the salary certificate of 2017 to show that the gross salary of the respondent was Rs.1,19,498/-. The First Appellate Court noted that there were deductions of a sum of Rs.21,000/- per month for house building loan and Rs.15,000/- per month for the Provident Fund and about Rs.9,500/- per month for income tax. The First Appellate Court held that even after the deduction, the amount with the respondent would be getting about Rs.64,000/- per month, therefore, it allowed Rs.25,000/- per month as interim maintenance.

Both the Courts below had allowed interim maintenance from the date of filing of the petition i.e. from 2015. The relevant salary certificate which should have been considered could only be of 2015. The petitioner has now produced the information received under the R.T.I. Act. It shows that the gross income of the respondent was Rs.91,277/- per month. The breakup is not given. The counsel had referred to the deductions referred to by the First Appellate Court. The husband had taken a house/building loan. The deductions will have to be kept into consideration. The amount that has been deducted for income tax and provident fund are

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mandatory. The husband would require some amount for himself for his upkeep, mobile, transportation etc. The amount that has been allowed as interim maintenance is adequate. The parties are yet to lead evidence.

The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

24.07.2018
Sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No