

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : November 16, 2018

1. Criminal Revision No. (F) 107 of 2014 (O&M)

Suruchi Jain and anotherPetitioners

versus

Nitin JainRespondent

2. Criminal Revision No. (F) 226 of 2014 (O&M)

Nitin JainPetitioner

versus

Suruchi Jain & anotherRespondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Brijender Kaushik, Advocate for petitioners in
CRR(F)-107-2014 and respondents in CRR(F)-226-2014

Mr. Annkur Soni, Advocate for petitioner in
CRR(F)-226-2014 and respondent in CRR(F)-107-2014

Fateh Deep Singh, J. (Oral)

Since both these revision petitions have arisen out of a common order passed by the court of learned District Judge, Family Court, Ambala and thus, are being taken up and disposed of

together.

Heard.

The brief facts are that Suruchi Jain and her minor son through the mother filed an application under Section 125 of the Code of Criminal Procedure against respondent-husband and father respectively Nitin Jain seeking maintenance allowance.

The applicant claims that out of wedlock between the husband and the wife which took place on 3.7.2003, petitioner no. 2 was born on 13.4.2004 who is residing with the wife. On account of matrimonial dispute details of which need not be gone into as it has not much relevance to the disposal of the present matter. The wife claims that the husband was running hosiery unit under the name and style of Jain Adeshwar Hosiery Works, Sharman Rattan Enclave, Ludhiana earning Rs 30,000/- per month and she does not have any source of income nor has any immovable property and hence entitled to maintenance in question.

The husband in his stand taken in the reply denied the allegations of the wife terming that she was having sufficient income to maintain herself and the minor child. The husband states that he was a salaried worker earning Rs 2000/- per month and has to maintain his aged parents and has also levelled insinuation against the wife which do not have much relevance.

The wife testified as PW1 by way of her affidavit Ex. PW1/A and examined PW2 Satender Kumar Aggarwal, Deputy Manager, HDFC Bank Limited, Ambala City as PW2. The husband testified as RW1 through his affidavit Ex. RW1/A and examined Vipin Jain, Accounts Officer, Anmol Collections, Ludhiana as RW2. Consequent upon the arguments, vide impugned orders dated 29.3.2014 the court below awarded maintenance to the tune of Rs 4000/- to the wife and Rs 2000/- to the minor child. Thus two revision petitions one by the husband and the other by the applicant-wife and minor child have come up for seeking setting aside of the order as well as for enhancement of the maintenance respectively.

Appreciating the arguments that have been advanced by the two sides, the inter-se relationship of the couple and the child having born out of the wedlock are not in any manner put to assail. Counsel for the husband could not convince this Court what evidence has come about as to the income of the wife and the minor child as has sought to be claimed by the husband. The un-displaced evidence led by the wife shows that the husband is running a hosiery unit. The plea of the husband that he is a mere worker earning Rs 2000/- per month could not be established to the satisfaction of the court by any means. Though the actual earnings of the husband could not be established documentarily but the statement of account

brought on the record shows huge transactions running into lakhs and when confronted with his cross-examination accepts that the bank account statement Ex. P2/A, Ex. P2/B and Ex. P2/C belongs to his account, though has tried to wriggle out of this by faking a plea of having transferred the account. Further more as has been pointed out during the course of arguments that the LIC premium receipt Ex. P1 and Ex. P2 show that the respondent-husband has shown his address as Nitin Kumar Jain and admits that during his transactions with private parties he was receiving payments through cheques and getting deposited into bank accounts and the fact that M/s Jain Adeshwar Hosiery Works was located at the residential address of the husband. The learned court below has rightly appreciated the fact that as has come in the cross-examination of the respondent witness Vipin Jain, Account Officer, Anmol Collections RW2 that the certificate issued by that firm Ex. R1 was signed by Lalit Jain who happens to be maternal uncle of the respondent and that Smt. Manju Jain who is shown to be an employee of the firm is maternal aunt of the husband and has failed to depict the job profile in the certificate Ex. R1 rather as has been rightly observed by the court below creates serious doubt over the very veracity and authenticity of this very document. The learned counsel for the husband could not in any manner displace the observations that have come about in the

impugned order. Thus, from all that has come about it can safely be concluded that the husband is running hosiery business and has handsome income and therefore, is under an obligation to maintain his wife and minor child born out of this wedlock commensurate to his economic status. The wife on the other hand is not shown to be having any independent source of income or immovable property and therefore, is total dependent on the husband who is an able bodied person and gainfully employed. Thus, keeping in mind that the provisions of Section 125 Cr.P.C. is a measure of social justice and specially enacted to aid and to protect the destitute wives, children etc. and therefore, needs to be given loose interpretation where stricter principles of Evidence Act are not to be applied. In the totality of what has come about in the evidence of the parties, to the mind of this Court Rs 4000/- and Rs 2000/- per month are on the lower side keeping in view the present trend of rising prices that too in a cosmopolitan city like Ludhiana. Thus, in view of the same it would be wholly justified to meet the ends of justice, if maintenance awarded to the wife is enhanced by Rs 1000/- per month and similarly the maintenance awarded to the son too is enhanced by Rs 1000/- per month as the child is supposed to study and stand on his own legs for which he needs money which cannot be exactly measured at this juncture. Thus, the claim of the husband that the

maintenance so awarded is on the higher side is not justified and the revision filed by the husband bearing CRR(F)-226 of 2014 is dismissed and that of filed by the wife and the children bearing CRR (F)-107 of 2014 is allowed thereby enhancing maintenance to the wife to Rs 5000/- per month and to the son to Rs 3000/- per month. Rest of the terms remain the same.

Both the petitions stand disposed of.

16th Nov. 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No