

CRR(F) No. 90 of 2014 (O&M)

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

CRR(F) No. 90 of 2014 (O&M)

Date of decision : 18.04.2018

Darshna

.....Petitioner(s)

Versus

Rajbir

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. P.K. Chugh, Advocate
for respondent no.1.

Ms. Jaideep Kaur, Advocate for
Mr. B.S. Jaswal, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

The petitioner has impugned the order dated 20.03.2014,
passed by the Family Court, Bhiwani.

A petition under Section 125 Cr.P.C. was filed by Darshna
and on behalf of the minor daughter seeking maintenance. Darshna was
married to the respondent in 1987. They had two children, a son and a
daughter. The son was a major and the claim petition was only filed
regarding the minor child in November 2012. The petitioner had pleaded
that the respondent was able bodied and had retired from the Indian

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Army from the post of Hawaldar and was getting Rs.15,000/- per month as pension and he owned 9 acres of land and the agricultural income was to the tune of Rs.2.5 lacs per annum. A prayer for maintenance of Rs.30,000/- per month was made.

The respondent-husband took the plea that the child was residing with her and he was looking after the girl and her education and Darshna had left the matrimonial home without sufficient cause. It was pleaded that he was getting pension of Rs.10,000/- per month and he was looking after his minor daughter and aged father. It was pleaded that he owned only half acre of land.

The Family Court on examining the issue awarded Rs.3,000/- per month to Darshna. It also noted that during the course of trial the petitioner had given up the claim so far as petitioner no.2 was concerned. The petition as against the minor daughter was dismissed. The petition qua Darshna alone was allowed.

The case had been adjourned a number of times as the petitioner had pleaded that respondent had not paid any amount pursuant to the order passed by the Family Court. They also moved an application for impleading the Union of India as a party. An order was passed in May 2015 for deducting Rs.5,000/- per month from the pension of the respondent till the outstanding arrears were cleared. The case was thereafter adjourned number of times to enable the respondent to clear the amount.

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The respondent had placed on record copy of the execution petition to show that the execution petition had been fully satisfied and was disposed of and the respondent was also ordered to be released from custody.

I have heard counsel of both the sides.

Counsel for the petitioner contends that the amount awarded by the Family Court was on the lower side and the respondent was getting pension of Rs.15,000/- per month.

The submission on the other hand is that no material had been placed on record to show that the respondent was getting pension of Rs.15,000/- per month in November 2012 when the petitioner was filed.

A reading of the petition shows that the petitioner had claimed that the minor daughter was living with the mother but she was taken away forcibly during the pendency of the petition but it need not detain us as the claim so far as petitioner no.2 was concerned had already been withdrawn.

The petitioner was required to show that the respondent was getting pension of Rs.15,000/-. No evidence was led nor any document was placed on file even here to show that he was getting pension of Rs.15,000/- per month. The son of the parties is major and is married and stated to be residing separately. The minor daughter is with the husband. In the absence of any material, the pension amount is taken as Rs.10,000/- per month at the time of filing of petition, therefore, a sum of

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Rs.3,000/- per month allowed to the petitioner was sufficient. No case for enhancement is made out.

The petition is dismissed.

18.04.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No