

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

**CRR(F) No. 95 of 2014 (O&M)
Date of Decision: January 15, 2018**

Yogesh Chand Saini

..Petitioner(s)

Versus

Dheeraj @ Reema and another

..Respondent(s)

with

CRR(F) No. 198 of 2014 (O&M)

Dheeraj @ Reema and another

..Petitioner(s)

Versus

Yogesh Chand Saini

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Karanjit Singh, Advocate
for the petitioner-husband.

Mr. Manoj Kaushik, Advocate
for the respondent-wife.

ANITA CHAUDHRY, J.

These are two revisions, one filed by the husband and other
by the wife aggrieved by the maintenance awarded by the District Judge,
Family Court, Gurgaon.

Records have been received.

I have heard counsel of both the sides.

Dheeraj @ Reema was married to Yogesh in March 2008.

They have a girl child out of this wedlock. Their daughter was born in

January 2009. The wife had levelled allegations of cruelty and demand of dowry. The wife and child moved out of the matrimonial home and are stated to be living in a rented accommodation. The wife also filed a complaint under Section 498-A/406 IPC.

In the application filed under Section 125 Cr.P.C. the wife pleaded that the husband was in the business of Real Estate and was maintaining a car and his income was Rs. 70,000 – 80,000/- per month. His mother was stated to be a Municipal Councilor at Alwar. The wife had prayed for maintenance of Rs.35,000/- per month as well as litigation expenses.

The husband denied the allegations and pleaded that he had filed a petition under Section 9 of Hindu Marriage Act and it was got dismissed in default when the wife refused to cohabit with him. He denied that he was earning Rs.70,000 – 80,000/- per month. It was pleaded that he was a Plumber and was earning Rs. 7,000/- per month and produced a certificate issued by the concern where he was working. The Family Court noted that the respondent-husband was maintaining a car and allowed Rs. 4,000/- per month to the mother and Rs. 4,000/- per month to the child from the date of petition.

The submission on behalf of Yogesh is that the Family Court failed to consider the salary certificate issued by his concern and the wife was also earning and she was giving tuitions and her income was more as she was more educated. It was also urged that the certificate shows that he has monthly income of Rs. 7,000/- whereas he has been asked to pay Rs. 8,000/- per month.

The submission on the other hand is that considering the price index and also considering the fact that the husband was maintaining a car there can be presumption that the income was much higher than what was stated. It was urged that the husband did not summon any record from his concern and there is no evidence that the wife was giving tuitions.

Records have been perused. The child had started going to school in 2011 and Rs. 450/- is being paid per month as his school fees. The child is living with the mother at Gurgaon. The husband had produced a certificate to show that he was working with a concern and was getting salary of Rs. 7,000/- per month. He did not summon the records or anyone from his office to show the actual amount received by him. It is admitted case that the husband owns a Maruti Swift car though it is now stated to have been transferred in the name of the brother of the husband. The very fact that the husband could afford a Maruti Swift car and money to run it, we have reason to believe that his income would be higher than what has been stated in the certificate. The wife did not summon any record from the concern. She did not produce any income tax return or any documents to show that the husband owned any immovable property or have rental income or income from business. Considering the little evidence produced by the parties, it can be said that the amount allowed was adequate. No case for enhancement is made out. The wife failed to lead evidence with regard to the husband's income. I

find no merit in both the petitions. Therefore, both the petitions are
dismissed.

January 15, 2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No