

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 1515 of 2017
Date of Decision: 13.7.2018**

Neetu

.....Petitioner

Versus

Raman Kumar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Naveen Batra, Advocate
for the petitioner.

Mr. T.P.Singh, Advocate
for the respondent.

ANITA CHAUDHRY, J

This revision has been filed by the petitioner seeking modification of the order passed by the Family Court, S.B.S Nagar on the ground that the interim maintenance allowed to her was on the lower side.

On the last several hearings, counsel for the respondent had stated that the matter was fixed for final hearing and this petition would ultimately become infructuous. The case was being adjourned since February 2018 but it appears that the Court below has still not decided the matter.

Few essential facts:

The parties were married in 2013. The petitioner claimed that she was beaten and turned out of the matrimonial home. The petitioner moved to her parents house in May 2016. The petition was filed seeking

maintenance in October 2016. The petitioner had claimed that the husband was a property dealer and was earning Rs. 70,000/- per month. The husband claimed that he was taxi driver and did not own a vehicle and remained out for duty and in his absence she had developed relationship and it came to his notice and he found her chatting and speaking on several occasions. It was pleaded that it was a love marriage and no dowry was given.

The Family Court found that the relationship was not disputed and as the petitioner could not place any material with respect to his income, therefore considering that the husband was able bodied and a labourer could earn Rs. 300 to Rs. 500/- per day, it allowed a sum of Rs. 1500/- per month as interim maintenance. A separate sum was allowed as litigation expenses.

Counsel for the petitioner contends that even if the respondent is taken as a skilled labourer being a taxi driver the minimum wages would be more than Rs. 8,000-9,000/- per month and the amount allowed is on the lower side and it is difficult to survive in the amount.

Counsel for the respondent urges that the husband is a taxi driver and he does not earn more than Rs. 4,000/- per month. He further submits that there is no child from the marriage and the parties have already led their evidence and let the Court below decide the issue.

The case had been adjourned a number of times and each time the respondent side had been seeking adjournment on the plea that the case was at the final stages and only arguments were to be submitted. The case had been adjourned thrice only on this ground. It appears that the trial Court has not been able to dispose of the petition. The zimni orders are not available, therefore it would not be appropriate to comment as to who had been asking for adjournments or whether it was the Court who was

adjourning on its own.

I have heard both the sides.

The marriage between the parties is not disputed. The application for maintenance was filed within three years of the marriage. The wife had pleaded that the husband was doing business and owned a taxi and was earning Rs. 70,000/- per month. This fact was disputed by the husband and allegation has been raised that the wife was not leading a chaste life. The husband had pleaded that he was a taxi driver but did not own any vehicle. The trial Court found that there was no evidence with respect to the fact that the husband owned a vehicle or was earning Rs. 70,000/- per month and assumed the husband to be a labourer who could earn at least Rs. 300/- to 500/- per day and allowed Rs. 1500/- per month as interim maintenance.

The husband is able bodied. He is a driver by profession. The parties are yet to lead their evidence. Even if it is assumed that he was a labourer but a skilled one then his capacity to earn would be over Rs. 9,000/- per month considering the minimum wages in Punjab. Therefore, the amount allowed is certainly on the lower side and therefore the amount of interim maintenance is enhanced to Rs. 3,000/- per month.

The petition is allowed.

(ANITA CHAUDHRY)
JUDGE

July 13, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No