

Crl. Revn. No. 481 of 2017 (O&M)

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

**Crl. Revn. No. 481 of 2017 (O&M)
Date of decision : 26.10.2018**

Sandeep Kaur and another

.....Petitioner(s)

Versus

Om Narayan Rall

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Argued by: Mr. Vivek Salathia, Advocate
for the petitioner.

Mr. L.S. Maan, Advocate
for the respondents.

ANITA CHAUDHRY, J.

This revision has been filed by the wife seeking enhancement of the maintenance allowed by the Court below.

I have heard counsel of both the sides.

The parties were married in December 2008. They have a child who was born in 2014. Differences arose and the petition under Section 125 Cr.P.C. was filed in November 2014. It was claimed that the husband was a Assistant in LIC office and was drawing salary of Rs.50,000/- per month. A petition under Section 125 Cr.P.C. was earlier filed in 2012. The wife had also lodged an FIR against the husband while the husband had filed a divorce petition but compromise was effected and the FIR was quashed and

the couple started living again. The petitioner had claimed maintenance of Rs.12,000/- for herself and Rs.10,000/- for the child from the date of application.

The husband took the plea that the wife had a temper and used to misbehave and hurled abuses on him and physically assaulted him and the matter was taken before the Panchayat. It was pleaded that she used to make false allegations which caused physical and mental agony to him but with the intervention of the relatives, compromise was effected and the FIR was quashed. It was pleaded that the wife was M.A. in Hindi and a Post Graduate and she was running a boutique and was earning handsomely.

The parties led evidence. The Family Court in its detailed order referred to the salary certificate in para 12 of the judgment and allowed Rs.5,000/- per month to the wife and Rs.3,000/- per month to the child for the year 2015. Maintenance of Rs.5,500/- per month to the wife and Rs.3,500/- to the child was allowed for the year 2016 and a sum of Rs.6,500/- per month to the wife and Rs.4,000/- per month to the child was allowed from January 2017 onwards. It was also ordered that the husband had deposited a demand draft of Rs.2 lacs in the anticipatory bail application and that amount would be adjusted.

The submission of the counsel for the petitioners is that the salary certificate of respondent is available on record which would show that in July 2016 the total income was Rs.69,239/- per month and the amount allowed to the wife and child is meagre and should be enhanced.

On the other hand, the submission was that the petitioner is referring to the salary certificate of July 2016 and in that month the husband

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had got a medical benefit which is given annually and it is on that account the income is higher for that month and they had placed on record the salary certificate for August/September 2016 and even the salary certificate for October 2014. The counsel submits that the maintenance petition had been filed in 2014 and the maintenance had been allowed from date of application, therefore, the only relevant salary certificate was Ex.R-3 which would show that the basic salary was Rs.16,210/- per month and the total salary was Rs.34,314/- per month but after deductions which were mandatory, the take home salary was only Rs.16,907/- per month and Rs.8,000/- per month has been allowed as maintenance for the first year and the petitioners were getting 50% of the salary whereas the Apex Court had held in ***Dr. Kulbhushan Kunwar Vs. Smt. Raj Kumari 1970(3) SCC 129*** that only 25% of the net salary should have been paid as maintenance to the wife. Counsel further submits that the wife was a Post Graduate and M.A. in Hindi and has done diploma in Web Designing and she is earning but unfortunately they could not lay hands on evidence.

A perusal of the record shows that the Life Insurance Corporation where the husband was working had issued a certificate Ex. R-5 according to which annual cash medical benefit is given to the employees and a sum of Rs.13,300/- had been given which is added in the salary of July 2016. The salary certificate Ex. R-11 shows that a sum of Rs.13,300/- had been added on account of medical benefit and this amount is not reflected in any other certificate. The petitioner is relying upon only this certificate to show that the monthly income was touching Rs.69,000/-.

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The petitioners were claiming maintenance from the date of filing of application. The income that is reflected in Ex. R-4 shows that the basic salary was Rs.16,210/- per month and after deduction of provident fund, income tax, mediclaim, the loan which the husband has taken, the take home salary was Rs.16,907/- per month. The amount which has been allowed for the year 2015 is Rs.5,000/- per month for the wife and Rs.3,000/- per month for the child, which cannot be said to be less considering the income.

In view of the above, the petitioners are not entitled to a modification or enhancement.

The petition is dismissed.

26.10.2018
Sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No