

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision (F) No. 201 of 2017 (O&M)
Date of Decision: 21.2.2018

Kiran Rathee

.....Petitioner

Versus

Ashish Sangwan

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajesh Khandelwal, Advocate
for the petitioner.

Mr. P.S.Poonia, Advocate
for the respondent.

ANITA CHAUDHRY, J

This revision is directed against the order dated 19.4.2017 passed by the District Judge, Family Court, Ambala seeking modification of the maintenance amount.

Detailing the facts first:-

The parties were married in April 2011. In the petition filed under Section 125 Cr.P.C., the petitioner had claimed that after marriage they had shifted to a rented accommodation in Gurgaon and the respondent was not maintaining her though he had sufficient income. It was pleaded that she had done her LL.M. but could not clear the interviews and was taking coaching for judicial examination. It was pleaded that the husband was working as a Software Engineer and had monthly salary of Rs. 2.00 lacs and had bagged big data projects. The petition was filed at Ambala.

Family Court, Ambala sought reply of the respondent and noted that the petitioner was a practicing lawyer. The respondent had pleaded that he was taking training at National Academy, Mussoorie and his total salary

month and after deducting all the expenses he required for himself, he had a spare amount of Rs. 10,000/- only and the petitioner was qualified and was able to earn Rs. 2.00 lacs per month from her practice and she had shown herself to be a practicing lawyer at the time of her medical examination in September 2012. The respondent (as before the Court below) also referred to a certificate issued by a Senior Advocate of Punjab and Haryana High Court in November 2016 that the petitioner had taken training from him in 2013.

The Family Court took the income of the husband to be Rs. 40,000/- per month and considering his deductions, allowed Rs. 6,000/- per month as interim maintenance to the wife.

The petitioner claims that the Family Court has overlooked the material facts and that they had taken information under the RTI on 25.11.2016 where the income was shown to be Rs. 50,000/- per month. It was pleaded that the petitioner was entitled to Rs. 25,000/- per month as interim maintenance. It was pleaded that the petitioner only had a LL.B. degree and she was not practicing and was preparing for her judicial exams since 2013. Along with the petition, she had appended the forms filed for the judicial service examination in different States from 2011 to 2015.

I have heard both the sides.

Counsel for the petitioner contends that they had taken information under the RTI Act from Lal Bahadur Shastri National Academy of Administration, Mussoorie and in response, it was mentioned that a trainee officer gets Rs. 50,000/- and that can be taken for assessing the maintenance. It was urged that the petitioner has appended the certificate to show that she had taken coaching from Rahul IAS Institute in

Delhi and she had paid a huge amount for the course fee and rentals for her stay in Delhi and she was entitled to higher amount of maintenance. The counsel had also referred to e-mail (Annexure P-4) and it was urged that the respondent had made a fake e-mail account and had sent a letter to her threatening her that the litigation would be expensive and that she should agree for a settlement. The counsel states that the matter was reported to the police and a case was registered.

The submission on behalf of the respondent is that the petitioner has produced new documents which were not produced before the Court below nor they can be considered and the petition under Section 125 Cr.P.C. was filed in 2016 and though the respondent is now an IAS officer but at that point of time he was with Railways and his income was Rs. 40,000/- per month and the order has been made to pay maintenance from the date of application and the income being earned at that point of time was rightly considered. The counsel points out that they had mentioned that while the respondent was under-trainee, he had to spend over Rs. 9900/- as mess fees and he had got no salary for June, July and August 2016 as he was on leave without pay. The counsel urges that the petitioner is a practicing lawyer in the Punjab and Haryana High Court along with her brother and has not disclosed her income.

Responding to the arguments, the counsel for the petitioner submits that no case has been filed by the petitioner in the High Court.

Petitioner has placed on record a number of documents which were not before the Court below therefore, they cannot be considered. However, it is not disputed that the petitioner had completed her LL.B. course in 2010. She got married in 2011. The parties did not have any child

and the husband has filed a divorce petition in February 2016. The application under Section 125 Cr.P.C. was filed subsequently. The husband was in Indian Railways in 2016 and his income at that point of time was Rs. 40,000/- per month. Respondent claims that he was on leave for three months and got no salary and during the training period he had to deposit over Rs. 9900/- per month as mess fees.

The petitioner has not filed any affidavit that she was not practicing in any Courts. She has appeared for judicial examination in few northern States and it was prayed that since she had spent huge amounts on the course fees and her stay in Delhi, she was entitled to those amounts as well.

The petitioner is pursuing her career and spending the amount on herself for her own development. Those amounts spent by her cannot be claimed. The income certificate of the husband is not available at this stage. The parties are yet to lead evidence. After deducting the mess fees, the amount which was in the hand of the husband was around Rs. 30,000/-. There are some statutory deductions which are made and keeping the entire circumstances into view, I am of the opinion that the amount which has been allowed as interim maintenance is sufficient.

The petition is dismissed.

Nothing contained in this order would be taken as an expression of final adjudication and would be done on the basis of the evidence which would be led before the Court below.

(ANITA CHAUDHRY)
JUDGE

February 21, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No