

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

**CRR(F)-241-2017 (O&M)
Date of Decision: 14.05.2018**

Shashi Bala @ Rachhna

....Petitioner

Versus

Kamal Nain

....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Kunal Dawar, Advocate
for the petitioner(s).

ANITA CHAUDHRY, J

CRM-19581-2017

The instant application has been filed under Section 5 of Limitation Act seeking condonation of delay of 84 days in filing the revision petition.

In view of the reasons mentioned in the application, delay of 84 days in filing the revision petition is condoned.

Application stands disposed of.

CRR(F)-241-2017

Revision is directed against the order dated 05.12.2016 passed by the Family Court-III, Faridabad who dismissed the application filed under Section 127 Cr.P.C. seeking enhancement of maintenance allowance.

The factual matrix. The parties were married in the year 1983.

No child was born from the marriage. The petitioner filed an application

under Section 125 Cr.P.C. sometime in 1989. Maintenance of Rs.300/- was awarded. In 1990, the petitioner filed an application seeking enhancement and the maintenance was enhanced to Rs.500/-. In 2004, the petitioner moved an application under Section 127 Cr.P.C. and pleaded that the husband was a Conductor with Delhi Transport Corporation and was drawing a salary of Rs.15,000/- per month and Section 125 Cr.P.C. had been amended in 2001, therefore the maintenance amount be enhanced. Meanwhile, in the proceedings initiated under the Hindu Adoption and Maintenance Act, Rs.900/- had been awarded to the petitioner. The Judicial Magistrate, Faridabad vide order dated 16.03.2009 allowed the application and enhanced the maintenance to Rs.3,000/- per month from the date of filing of the application. A revision was preferred, the order was modified and the maintenance was reduced to Rs.1300/- per month. Aggrieved with the order, the petitioner approached the High Court and the order of the Magistrate was restored. The petitioner again filed an application under Section 127 Cr.P.C. seeking enhancement of maintenance. The plea taken by the petitioner was that the husband was getting salary of Rs.30,000/- as per the information received under the RTI Act.

The respondent had denied the facts and have pleaded that he was 58 years old and had taken house on rent and was having medical problems and had retired and was getting pension of Rs.8835/- per month.

Noticing these facts, the petition was dismissed.

I have heard counsel for the petitioner. The counsel for the petitioner urges that in the reply submitted by the respondent, he had stated that he was spending Rs.10,000/- on medical expenses and Rs.5,000/- on rent and his income was not meager and that would mean he had other

source of income and the amount of maintenance should have been enhanced.

The arguments raised on behalf of the petitioner is totally misplaced. The petition had been filed in 2013. The reply had been filed by the husband in 2013. The respondent had retired subsequently in 2015. The Family Court, noticing the facts and developments considered the pension amount and had dismissed the application. The Magistrate had allowed Rs.3,000/- per month as maintenance and besides that the petitioner was also getting Rs.400/- in the suit filed under Section 18 of the Hindu Adoption and Maintenance Act. The respondent is getting pension of Rs.8835/-. The petitioner is already getting Rs.3400/- as maintenance, therefore, there is no scope for enhancement.

I find no merit in the petition and is dismissed.

May 14, 2018

ps-I

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No