

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CRR(F)-191-2019

Date of Decision:26.08.2019

Anand Chaudhary

.....Petitioner

Versus

Saksham

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Navkesh Singh Goraya, Advocate,
for the petitioner.

HARI PAL VERMA, J.

Petitioner has filed the present revision petition against the order dated 09.01.2019 passed by learned Principal District Judge, Family Court, Hisar, whereby in a petition filed by the respondent under Section 127 Cr.P.C., learned Family Court has enhanced the maintenance of the respondent from Rs.7,500/- per month to Rs.12,000/- per month.

Briefly stated, the respondent has filed a petition under Section 127 Cr.P.C. seeking enhancement of maintenance. The respondent is son of the petitioner though he is living with his mother. Earlier, the respondent has filed a petition under Section 125 Cr.P.C. on 26.09.2012 and vide order dated 06.05.2014, learned Family Court has awarded him maintenance @ Rs.7,500/- per month from the date of filing of the petition and the petitioner was directed to deposit the maintenance by 10th of every month.

Considering the hike in prices and there being no independent source of income with the respondent to maintain him, who is a 5th class student

studying in St. Kabir School, Dabra Road, Hisar, where his mother is paying Rs.6,550/- for three months fee and also paid Rs.10,450/- as admission fee etc. and in addition to it, she is also paying Rs.8,00/- per month as conveyance charges, the petition under Section 127 Cr.P.C. was filed seeking enhancement of maintenance.

As per petition, the petitioner has two book shops under the name and style of “Happy Book Depot” and “Book Heritage” at Chandigarh. He is also having a showroom(basement) and two houses at Chandigarh and one house at Panchkula. He also owns other property in Delhi and therefore, his income is more than Rs.1 lakh per month. In this manner, enhancement of maintenance @ Rs.25,000/- per month was prayed.

When the matter was being considered by the Family Court, the petitioner has contested the same and has pleaded that mother of the respondent is also capable to maintain him(son) as she is getting Rs.32,000/- per month from Army Public School. Moreover, already awarded maintenance @ Rs.7,500/- is sufficient enough to maintain him (son) and the petition for enhancement under Section 127 Cr.P.C. has been filed with an object to harass him(petitioner). In fact, mother of the respondent is treating the son as a burden upon her and in case, she is not capable to maintain him, then she is at liberty to hand over the custody of the respondent to the petitioner, who is ready and willing to keep and maintain the child with his limited sources. However, income of Rs.1 lakh per month as alleged by the respondent has been denied.

Considering the rival pleadings of the parties, the learned Family Court has enhanced maintenance from Rs.7,500/- per month to Rs.12,000/- per month. The relevant discussion reads as under:-

“I have considered the rival contentions of learned counsel for both the parties. In this matter involving payment of maintenance to the destitute child initially an application under Section 125 of the Code of Criminal Procedure was allowed in the year 2012. Now an application under Section 127 of Code of Criminal Procedure has been moved being the circumstances have been changed. Having regard to the spirit behind the provisions of law for maintenance and manifold increase in the prices of essential commodities, this Court deems it fit and proper that at least reasonable maintenance should have been enhanced in favour of the petitioner considering the change circumstances being the respondent is a man of sufficient sources as he is having two book shops and residential house at Chandigarh and the petitioner, who is his only legal heir and is a student of 5th class, is having no source of income. It is not only a moral duty but also a legal duty cast upon the respondent being father to maintain his minor son. In these circumstances, particularly when the petitioner has already granted maintenance vide order dated 06.05.2014 and keeping in view the fact that the prices of the commodities dearer day by day, this Court deems fit to enhance the amount from Rs.12,000/- per month to Rs.7,500/- per month to the petitioner. This amount of maintenance if any paid by respondent to the petitioner shall be adjusted against the enhanced maintenance.

Respondent is under direction from this Court to make the payment of the maintenance allowance due from the date of the petition till date of order, to the petitioner within three months. He is also under direction from this Court to make payment of future maintenance allowance w.e.f. date of this order to the petitioner by first week of every month in the account of the petitioner bearing Account No.4167000400259894, PNB, Hisar. In case of default in payment qua arrears of future maintenance allowance, he shall be liable to pay an additional sum of Rs.1,000/- to each of the

petitioner, for every months default. In case respondent fails to pay the sum, petitioner shall have a right to seek the same through process of the Court. Petition is accordingly disposed of with costs. Memo of cost be drawn accordingly. Consign the file to records.”

Heard learned counsel for the petitioner.

Considering the fact that in the proceedings under Section 125 Cr.P.C., learned Family Court vide order dated 06.05.2014 has awarded maintenance to the respondent @ Rs.7,500/- per month and at that time, the respondent has hardly started going to school, but now he is in 5th class and at this stage, expenses must have been increased, which include admission fee, tuition fee, books, uniform, transportation and charges for other curricular activities and therefore, after a period of more than four years, enhancement of maintenance from existing Rs.7,500/- per month to Rs.12,000/- per month is certainly not on higher side. Moreover, the petitioner is a person of sufficient means as he is stated to be running two book shops having houses in Chandigarh and Panchkula also, the said enhancement is not disproportionate to his income. Accordingly, no case for interference is made out.

Dismissed.

August 26, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No