

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

**CRR-718-2012 (O&M)
Date of Decision: 13.6.2019**

Madhu and another

.....PETITIONER(s).

VERSUS

Rajesh Gupta

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Rajiv Kataria, Advocate with
Mr. Richudeep Bajaj, Advocate,
for the petitioners.

Mr. B.S.Bhalla, Advocate,
for the respondent.

RAJ SHEKHAR ATTRI, J.

The present revision petition has been filed against the judgment dated 18.1.2012 passed by learned Chief Judicial Magistrate, Moga for enhancement of maintenance.

This case has chequered history.

Initially, Smt. Madhu filed an application under Section 125 of the Code of Criminal Procedure claiming maintenance for herself and her daughter Ms. Neha. That application was allowed by learned Judicial Magistrate, 1st Class, Moga vide order dated 2.9.2002 and the petitioner and her daughter was allowed maintenance @ ₹ 500/- per month.

Thereafter, the petitioner filed another application under Section 127 of the Cr.P.C. for enhancement in the said amount of

maintenance i.e. from ₹ 500/- to ₹ 5000/-. Said application was allowed by learned Chief Judicial Magistrate, Moga vide his order dated 18.1.2012 by observing in para 16 as under : -

“16. Keeping in view the above facts and circumstances of the case, change of circumstances since the date of grant of maintenance on 2.9.2002 till today, high rising prices of essential commodities day-by-day, financial status of the parties, necessities of life of the petitioners, and present income of the respondent, the Court is of the considered opinion that monthly maintenance awarded to the petitioners on 2.9.2002 Ex.46 is liable to be enhanced from ₹ 500/- to ₹ 5500/- per month to each of the petitioners. Hence, the present petition is allowed whereby the monthly maintenance awarded to both the petitioners is enhanced/increased from ₹ 500/- to ₹ 5500/- per month from the date of order.”

Thus, the maintenance was enhanced from ₹ 500/- to ₹ 5500/- per month each to the petitioner as well as to her daughter.

Instant petition has been filed by the petitioner for modification of the order dated 18.1.2012 and for further enhancement in the amount of maintenance to her and her daughter. The same was allowed by the Coordinate Bench on 3.9.2014 and wherein it was observed that the respondent husband is earning ₹85,652/- per month as per salary slip (Annexure R-21) and the maintenance was enhanced @ ₹ 20,000/- per month to the petitioner and @ ₹ 10,000/- per month to her daughter (total ₹ 30,000/-) from the date of filing the application for enhancement of maintenance.

Said order has been challenged by the respondent husband

before the Hon'ble Supreme Court by filing SLP (CrI.) No.10 of 2015 later made as Criminal Appeal No.657 of 2016 and vide order dated 18.7.2016 the matter was remanded to this Court for re-adjudication of the matter on merits by observing as under : -

“Leave granted.

Having heard learned counsel for the rival parties, we are satisfied, that the impugned order was passed by the High Court, without taking into consideration the actual salary statement of the appellant, which we are told was the only income of the appellant during the period.

In view of the above, the impugned order of the High Court deserves to be set aside. The same is accordingly set aside. The parties are directed to appear before the High Court on 16.08.2016 for re-adjudication of the matter on merits, afresh. The High Court shall take into consideration the salary statement of the husband – Rajesh Gupta, to determine the maintenance permissible to the wife and daughter, in accordance with law.”

I have heard learned counsel for the parties and gone through the record. I have also gone through the written submissions submitted on behalf of the parties.

Explaining the ethos of modern trend in social legislation, Hon'ble Supreme Court in **Badshah v. Urmila Badshah Godse**, AIR 2014 SC 869 observed as follows:-

“....Purposive interpretation needs to be given to the provisions of S. 125 CRPC. While dealing with the application of destitute wife or hapless children or parents under this provision, the court is dealing with the marginalized sections of the society. The purpose is achieve

'Social Justice' which is the constitutional vision, enshrined in the preamble to the Constitution of India, Preamble to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specially highlights achieving their social justice. Therefore, it becomes the bounden duty of the Courts to advance the cause of social justice. While giving interpretation to a particular provision, the Court is supposed to bridge the gap between the law and society.”

On the record of this case, Annexure R-21 is the salary slip for June, 2012 which proves that he has been drawing ₹ 85,652/- per month. However, he was getting deduction of ₹ 20,000/- as income tax, ₹ 10,278/- as CPF and ₹4450/- as lease recovery. After deduction of these amounts, he was getting ₹ 50,924/- as salary in hand.

The petitioner wife also placed on record the salary certificate which has been supplied to her by the employer of the respondent under the provisions of Right to Information Act. As per Annexure P-16 i.e. the information furnished by National Highways Authority of India on 13.6.2012, it is stated that Shri Rajesh Gupta was working as General Manager (Finance) and was drawing basic pay of ₹ 43,210/- in the pay band of ₹ 37400-67000 plus grade pay of ₹ 8700/- with an annual increment of 3% of basic pay plus grade pay. Annexure P-18 is also the information supplied by National Highway Authority of India with regard to Shri Rajesh Gupta, General Manager (Finance) showing her gross salary from June, 2013 to December, 2013 which is as under : -

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Sr. No.	Month	Amount of Gross salary	Net paid (after statutory deductions)
1	Jan, 2013	Rs.91,968/-	Rs.24,882/-
2	Feb., 2013	Rs.91,968/-	Rs.36,482/-
3	March, 2013	Rs.91,968/-	Rs.61,482/-
4	April, 2013	Rs.91,968/-	Rs.61,482/-
5	May, 2013	Rs.1,13,356/-	Rs.80,303/-
6	June, 2013	Rs.96,246/-	Rs.65,246/-
7	July, 2013	Rs.99,144/-	Rs.64,692/-
8	Aug, 2013	Rs.99,144/-	Rs.57,797/-
9	Sep., 2013	Rs.1,15,668/-	Rs.72,338/-
10	Oct., 2013	Rs.1,04,652/-	Rs.57,644/-
11	Nov., 2013	Rs.1,04,652/-	Rs.57,644/-
12	Dec., 2013	Rs.1,04,652/-	Rs.54,521/-

Annexure P-19 is also the similar information supplied by National Highways Authority of India showing his salary as under : -

Sr. No.	Month	Amount of Gross salary	Net paid (after statutory deductions)
1	April, 2014	Rs.1,10,160/-	Rs.72,491/-
2	May, 2014	Rs.1,10,160/-	Rs.72,491/-
3	June, 2014	Rs.1,10,160/-	Rs.72,491/-
4	July, 2014	Rs.1,10,160/-	Rs.72,591/-
5	Aug., 2014	Rs.1,10,160/-	Rs.72,791/-
6	Sep, 2014	Rs.1,21,727/-	Rs.82,970/-

The respondent wife has also placed on record the income tax returns and also placed on record details of the income from 1.4.2004 to 31.3.2016 showing total income and net income after deduction of tax in each financial year as under : -

Financial Year	Total Income	Net After Tax Deduction
2004-05	222922	218036
2005-06	281607	280573
2006-07	262218	254625
2007-08	511228	471138
2008-09	511228	471138

Financial Year	Total Income	Net After Tax Deduction
2009-2010	616104	555504
2010-2011	665135	616696
2011-2012	939194	831403
2012-2013	2674192	2090823
2013-2014	1595672	1309569
2014-2015	1729181	1437965
2015-2016	1976783	1611376
Total Income 140 months	1,19,85,464	10148846

From the above, it becomes more than apparent that the husband has earned from the financial year 2004 to 2015-16 (140 months) an amount of ₹ 1,19,85,464/- and after deduction of the income tax, he saved ₹ 1,01,48,846/-.

Keeping in view the overall facts and circumstances of the case and average income of the respondent-husband, this Court is of the view that he can easily pay maintenance amount @ ₹ 25,000/- to his wife. Moreover, the daughter of the parties Ms. Neha requires some more amount of maintenance for the purpose of higher studies.

In this view of the matter, the present revision petition is allowed and the amount of maintenance to the wife is enhanced from ₹ 5,500/- to ₹ 25,000/- per month and maintenance amount is also enhanced to the daughter from ₹ 5,500/- to ₹ 20,000/- per month from the date of the order of Chief Judicial Magistrate, Moga dated 18.1.2012. However, the arrears of enhanced maintenance shall be paid in three equal instalments starting from 31.7.2019 within six months.

June 13, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*