

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

I.

CRR-2848-2016 (O&M)
Date of Decision: 8.5.2019

Ujjwal Sharma

.....PETITIONER(s).

VERSUS

Smt. Jyoti

.....RESPONDENT(s).

II.

CRR(F)-452-2016

Smt. Jyoti

... Petitioner

Versus

Ujjwal Sharma

... Respondent

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

Present: Mr. Ashish Yadav, Advocate
for the petitioner in CRR-2848-2016 and
for the respondent in CRR(F)-452-2016.

Mr. Suresh Kumar Kaushik, Advocate,
for the petitioner in CRR(F)-452-2016 and
for the respondent in CRR-2848-2016.

RAJ SHEKHAR ATTRI, J.

This order shall dispose of the aforesaid two petitions as both the petitions have originated from common impugned order dated 7.6.2016 passed by learned District Judge (Family Court), Gurgaon. The facts are taken from CRR-2848-2016 and the parties would be referred by

their status in this petition.

Brief facts of the case are that Smt. Jyoti respondent filed an application under Section 125 of the Code of Criminal Procedure for grant of maintenance on the ground that her husband has neglected and refused to maintain her inspite of the fact that he was serving as Manager (Sales & Marketing) with M/s Earth Infrastrucutre Limited, Gurgaon and earning ₹ 1 lac per month. Apart from it, he possessed two storey house of 100 square yards and has given one floor on rent @ ₹ 15,000/- and his monthly income is ₹ 1,80,000/-.

After hearing the parties, learned Family Court awarded maintenance @ ₹ 16,000/- per month to the wife from the date of filing the petition vide order dated 7.6.2016.

Said order has been challenged by the petitioner on the ground that the amount of maintenance is highly exorbitant and he is unable to pay this amount. Apart from it, it is submitted that the wife is highly educated being MBA and is working in Gurgaon and she is earning ₹ 30,000/- per month.

I have heard learned counsel for the parties and gone through the record.

At the time of filing the petition, the petitioner-husband was working as Manager (Sales & Marketing) with M/s Earth Infrastructure Limited, Gurgaon. This fact has been denied by him in the reply. However, he asserted that he is working with Bertelsmann Marketing Service India Private Limited and getting salary of ₹ 20,530/- per month.

He denied if he is having any immovable property.

Learned Family Court after hearing the counsel for the parties, allowed the petition and awarded maintenance @ 16,000/- per month. It is not disputed that Smt. Jyoti has qualified as Master of Business Administration (MBA).

While relying upon a letter dated 17.12.2015 issued by arvato BERTELSMANN, learned counsel for the petitioner-husband submits that the petitioner has resigned from the said company but this argument is not acceptable. The petitioner-husband has filed his written statement on 19.8.2015 which was duly signed by him. In para 10, it is specifically mentioned that he is working in that company and earning ₹ 20,530/-. This Court would like to reproduce the relevant part as under : -

“.....It is submitted that the respondent is working in Bertelsmann Marketing Services India Private Limited and getting total salary of 20,530/- per month and as such respondent has no other source of income except salary and also not having any plots or agricultural land in anywhere.”

Contrary to it, a certificate dated 17.12.2015 has been produced before this Court that the petitioner left the job of the said company on 10.6.2015. It seems that the said certificate is not correct, rather, the petitioner husband intends to conceal the truth.

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.”

In view of the above and after going through the material available on record, this Court is of the view that no case is made out by the petitioner-husband to set aside the impugned order dated 7.6.2016 or to reduce the amount of maintenance. Consequently, the revision petition filed by the husband petitioner (CRR-2848-2016) stands dismissed.

Now coming to the revision petition filed by the respondent wife (CRR-452-2016), no cogent evidence has been produced on record to establish if the petitioner-husband is earning ₹ 1,80,000/- as asserted in para 10 of the application. However, he himself admits that he is earning ₹ 20,530/-.

Keeping in view the facts and circumstances of the case, this Court is of the view that no case is made out for enhancement of maintenance. However, in case any immovable property comes to the notice of the respondent-wife, she can move an application under Section 128 of the Cr.P.C. for modification of the impugned order dated 7.6.2016.

With these observations, the revision petition filed by the respondent-wife stands disposed of.

May 8, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>