

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i)

CRR (F)-510-2017 (O&M)

Sachin Rana

..... Petitioner

Versus

Jyoti Rana

..... Respondent

(ii)

CRR (F)-199-2018 (O&M)

Jyoti Rana

..... Petitioner

Versus

Sachin Rana

..... Respondent

Date of Decision : 13.06.2019

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Mayank Mathur, Advocate
for the petitioner in CRR (F)-510-2017 and
for the respondent in CRR (F)-199-2018.

Mr. Anurag Jain, Advocate
for the petitioner in CRR (F)-199-2018
and for the respondent in CRR (F)-510-2017 .

RAJ SHEKHAR ATTRI, J. (Oral)

CRM-41008-2017 in CRR (F)-510-2017 and
CRM-14620-2018 in CRR (F)-199-2018

These are the applications for condonation of delay.

Heard. For the reasons, mentioned in the applications, the same are allowed. Delay of 46 days in CRM-41008-2017 in CRR (F)-510-2017 as well as delay of 187 days in CRM-14620-2018 in CRR (F)-199-2018 in filing the revision petitions is condoned.

CRR (F)-510-2017(O&M) and
CRR (F)-199-2018

This order shall dispose of aforesaid two petitions i.e. CRR

(F)-510-2017, filed by Sachin Rana-husband and CRR (F)-199-2018, filed by Jyoti Rana-wife as both have been originated from the common order dated 20.07.2017, passed by the Judge, Family Court, Hisar.

Said Sachin Rana has challenged the aforesaid order dated 20.07.2017 on the ground that the learned Family Court failed to appreciate the facts of the case and wrongly ordered to make the payment of maintenance whereas Smt. Jyoti Rana, while challenging the said order, has alleges that the amount of maintenance, awarded to her by that court is highly meagre and disproportionate to the income of her husband and it should be enhanced.

Admittedly, the marriage of the parties was solemnized on 24.03.2010 and out of the said wedlock, two children were born.

The wife alleges in her petition that she has been neglected and refused to be maintained by her husband.

On the other hand, the husband, in his petition, alleged that the allegations levelled against him are false, rather he asserted that his wife is a B.A. B.Ed and she has ample sources of income because she is working as a teacher and having salary of Rs.40,000/- per month and apart from that, she is also giving tuition and earning Rs.25,000/- per month more. Thus, her income is more than Rs.60,000/- per month and she is not entitled for any maintenance.

The family court has afforded adequate opportunities to the parties to adduce evidence and ultimately vide order dated 20.07.2017 awarded maintenance at the rate of Rs.15,000/- per month and Rs.5500/- as litigation expenses to the wife. The husband was asked to deposit the amount in her bank account.

Learned counsel for the husband has vehemently contended that the wife is well qualified and the husband is not running any business rather he sells vegetables door to door on the hand-cart, whereas the wife is working in school and also giving tutions but these facts have been ignored by the Family Court.

On the other hand, learned counsel for the wife has submitted that the husband is running a wholesale shop of vegetables and fruits and earning more than Rs.65,000/-.

This court has given thoughtful consideration to the rival contentions and examined the record.

On perusal of record, it transpires that the husband has been running a shop of fruits and vegetables. He also owns innova car. In the photographs Annexures P-10 and P-11, he is shown counting the money, earned from the fruit business. There is no evidence if wife is gainfully employed in any school or giving tuition. All these are the bald allegations of the husband.

In this view of the matter, no case is made out for reduction of the maintenance .

Now coming to the petition for the enhancement of maintenance, filed by the wife. She was granted maintenance at the rate of Rs.15,000/- per month.

The wife is to look after herself and her two children. An amount of Rs.15,000/- as maintenance is not adequate for their maintenance.

The Hon'ble Supreme Court in **Badshah v. Sou. Urmila Badshah Godse and Anr., 2013 (4) RCR (Civil) 830**, has observed as

under:-

"13.3. Thirdly, in such cases, purposive interpretation needs to be given to the provisions of section [125](#), Code of Criminal Procedure 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 to achieve "social justice" which is the Constitutional vision, enshrined in the Preamble of the Constitution of India. Preamble to the Constitution of India clearly signals that we have chosen the democratic path under rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the Courts to advance the cause of the social justice. While giving interpretation to a particular provision, the Court is supposed to bridge the gap between the law and society.

14. Of late, in this very direction, it is emphasised that the Courts have to adopt different approaches in "social justice adjudication", which is also known as "social context adjudication" as mere "adversarial approach" may not be very appropriate. There are number of social justice legislations giving special protection and benefits to vulnerable groups in the society. Prof. Madhava Menon describes it eloquently:

It is, therefore, respectfully submitted that "social context judging" is essentially the application of equality jurisprudence as evolved by Parliament and the Supreme Court in myriad situations presented before courts where unequal parties are pitted in adversarial proceedings and where courts are called upon to dispense equal justice. Apart from the social-economic inequalities accentuating the disabilities of the poor in an unequal fight, the adversarial process itself operates to the disadvantage of the weaker party. In such a situation, the judge has to be not only

sensitive to the inequalities of parties involved but also positively inclined to the weaker party if the imbalance were not to result in miscarriage of justice. This result is achieved by what we call social context judging or social justice adjudication.

15. The provision of maintenance would definitely fall in this category which aims at empowering the destitute and achieving social justice or equality and dignity of the individual. While dealing with cases under this provision, drift in the approach from "adversarial" litigation to social context adjudication is the need of the hour."

It is the moral, religious, social and legal duty of the husband to maintain his wife and children.

Keeping in view the aforesaid facts and circumstances of the case, sky rocketing cost of necessities of life, status of parties, this court is of the view that the amount of maintenance should be minimum Rs.20,000/-. As such, wife is entitled to maintenance.

Consequently, the petition i.e. CRR (F)-199-2018, filed by Jyoti Rana-wife stands allowed. She is granted maintenance at the rate of Rs.20,000/- per month from the date of the application. The arrears of the enhanced maintenance shall be paid in three equal installments with quarterly rests i.e. on 15.07.2019, 15.10.2019 and 15.01.2020.

However, the petition i.e. CRR (F)-510-2017, filed by husband Sachin Rana is dismissed.

13.06.2019

mamta

**(RAJ SHEKHAR ATTRI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No