

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision (F) No. 460 of 2016 (O&M)

Date of decision : July 22, 2019

Veena Rani @ Meena Rani

....Petitioner

versus

Kala Ram

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Janak Singh Bhinder, Advocate for the petitioner
Respondent – Service dispensed with vide orders
dated 10.10.2018

Fateh Deep Singh, J. (Oral)

Present petitioner Veena Rani @ Meena Rani along with her two then minor sons Ravi and Abhimanu had earlier filed an application under Section 125 of the Code of Criminal Procedure (in short, the Cr.P.C.) against respondent Kala Ram husband and father respectively seeking maintenance and in this application bearing No. 22 dated 11.12.1997, the court had allowed the same vide orders dated 11.9.1998 whereby the husband father was directed to pay maintenance allowance at the rate of Rs 400/- per month to the wife

and at the rate of Rs 300/- per month to each of the two other applicants, thus, totalling to Rs 1000/- per month. The applicants also filed an application bearing No. 1 of 2.1.2003 under Section 127 Cr.P.C. in which vide order dated 21.5.2005, maintenance allowance at the rate of Rs 1500/- per month to the wife and at the rate of Rs 1250/- per month each to the children was granted. Subsequently, these applicants on 24.1.2013 filed an application under Section 127 Cr.P.C. seeking enhancement of this maintenance allowance. The same was disposed of vide orders dated 22.8.2016 by the court of learned Additional Sessions Judge exercising the powers of District Judge, Family Court, Barnala. By the said order in which the respondent husband did not appear, the maintenance allowance to the wife was enhanced to Rs 3000/- per month whereas application on behalf of applicants no. 2 and 3 was dismissed as withdrawn vide orders dated 19.8.2016.

Heard Mr. Janak Singh Bhinder, counsel for the petitioner and perused the records.

It is established case of the husband that he at the relevant time was working as a Sweeper in the Municipal Corporation, Amritsar. The same is duly proved and established by the testimony of AW2, Junior Assistant, from the office of Municipal

Corporation and has proved the fact that the respondent-husband was working as Sweeper since 1.3.1984 and proved copy of the service book as Ex. A3 and has also proved salary certificates Exs. A4 to A7 for the months of November, December, 2015 and January and February, 2016. As is not displaced the established salary comes to Rs 34908/- per month. The court below has fallen into an error by misinterpreting the salary certificates Ex. A1 to A6 by concluding that he was carrying home salary of Rs 25000/- per month when it is well settled preposition of law that deductions on account of PF, bank loan etc. are not to be deducted and thus, the salary of the respondent being Rs 34908/- per month for the years 2015-16 and which by all means would have been enhanced with the passage of time. The mere grant of enhancement from Rs 1500/- per month to Rs 3000/- per month is certainly erroneous and disproportionate to his earnings especially when it is there in the record that children out of this wedlock have withdrawn their claim in these proceedings for enhancement of maintenance. However, it is a matter of common knowledge that burden of children who are not earning certainly falls on the mother with whom they are residing and having regard to unrebutted salary being drawn by the husband and the fact that the wife is entitled to maintenance commensurate with

the earnings of her husband and to maintain status at par with him and which has gone totally astray in the impugned findings as has been argued by Mr. Bhinder, counsel for the petitioner and having regard to the escalating trend of prices of essential commodities, day to day activities of the life including education in view of the established salary of the husband, it would be sufficient to hold in the light of the testimony of the wife as AW1 and of her witnesses that it would be appropriate to hold that the wife is certainly entitled to Rs 10,000/- per month. In the light of what has been detailed and discussed above, the impugned finding certainly is wrong interpretation of the evidence and the law and thus, is set aside by way of allowing present petition thereby enhancing the maintenance of the petitioner wife Veena Rani from Rs 1500/- to Rs 10,000/- from the date of application under Section 127 Cr.P.C. In the light of the same, the present petition stands allowed in those terms.

July 22, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No