

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRR (F) No.51 of 2019 (O&M)

Decided on:- January 30, 2019.

Manju Devi and another

.....Petitioners.

Versus

Rajesh.

.....Respondent.

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

Present:- Mr. M.S. Rana, Advocate
for the petitioners.

HARI PAL VERMA, J. (Oral)

CRM-3413-2019

Prayer in this application filed under Section 5 of the Limitation Act, 1963 read with Section 482 Cr.PC is for condonation of delay of 72 days in filing the present criminal revision.

For the reasons stated in the application, the same is allowed and the delay of 72 days in filing the instant criminal revision is condoned.

CRR (F) No.51 of 2019

The petitioners have filed the present criminal revision seeking enhancement of maintenance granted to them by learned Principal Judge, Family Court, Rohtak vide judgment dated 10.09.2018 in a petition filed by them under Section 125 Cr.P.C.

Vide impugned judgment dated 10.09.2018, the family Court has granted maintenance @ Rs.3,000/- per month to the petitioner No.1 whereas @ Rs.2,000/- per month to petitioner No.2, from the date of passing of the judgment.

Briefly stated, the petitioners who are the wife and minor daughter of the respondent, have filed a petition under Section 125 Cr.PC for grant of maintenance to them. As per the petitioners, the marriage of petitioner No.1 was solemnized with the respondent on 13.03.2005 and out of this wedlock, two children, namely, Tanisha (daughter) and Rajat (son) were born. Petitioner No.2 Tanisha is in the custody of petitioner No.1, whereas the son Rajat is in the custody of respondent. The respondent and his family members treated petitioner No.1 with cruelty for bringing insufficient dowry. In the month of August, 2005, the respondent and his family members demanded a Santro car instead of a motorcycle from the petitioner No.1. However, when petitioner No.1 showed her inability to fulfil their demand, the respondent and his family members gave beatings to her and rather turned her out of the matrimonial home. On 04.09.2009, when a son was born from the wedlock, the respondent and his family members demanded Rs.2 lakh in cash. The parents of petitioner No.1 arranged Rs.50,000/- and gave it to the respondent and his family members. On 13.01.2016, again the respondent and his family members started pressurising the petitioner to bring Rs.2 lakh from her parental home, so as to buy a car. For not meeting this demand, the respondent again gave beatings to the petitioner No.1. The respondent who was working in the Indian Army, is earning more than Rs.50,000/- per month

and in addition thereto, he is owning a residential house and agricultural land in village Bidala, whereas there is no independent source of income with petitioner No.1. Therefore, the petitioners are entitled to the maintenance @ Rs.15,000/- per month.

The respondent appeared before the family Court and controverted the allegations made in the petition. It was pleaded that the marriage was simple and the allegation that the respondent demanded Rs.2 lakh, so as to buy a car is false. In fact, petitioner No.1 left the matrimonial home without informing the respondent and his family members. Sincere efforts were made to bring her back to the matrimonial home, but she was not willing to stay in the company of the respondent and rather flatly refused to come. The respondent has retired from the Indian Army and is getting pension of Rs.13,895/- per month. He has old parents to look after, in addition to one minor son Rajat, who is also living with him.

Learned counsel for the petitioner has argued that during pendency of the petition, while granting interim maintenance to the petitioners vide order dated 18.01.2017, the family Court has held that at the time of his retirement, the commutation amount was taken by the respondent, which is lying with the respondent only and pending determination of the rights of the parties, the family Court deemed it appropriate to grant interim maintenance @ Rs.8,000/- per month (Rs.5,000/- per month to petitioner No.1 and Rs.3,000/- per month to petitioner No.1). However, this fact has not been considered by the family Court while passing the impugned judgment dated 10.09.2018, whereby the petitioners have been awarded total

maintenance of Rs.5,000/- per month. Thus, he has prayed for modification in the impugned judgment dated 10.09.2018 by enhancing maintenance.

I have heard learned counsel for the petitioners.

The marriage and the constitution of family are not in dispute. Petitioner No.2 a daughter is living with her mother i.e. petitioner No.1, whereas the respondent-husband, who is retired from the Indian Army, is maintaining the old parents and son Rajat. In the absence of any evidence to show that the income of the respondent is more than what he has projected i.e. is getting pension of Rs.13,895/- per month, no evidence has been brought on record by the petitioner-wife in support of her pleading that the respondent is earning Rs.50,000/- per month. Thus, taking into consideration the fact that the respondent-husband, who is retired from the Indian Army and is getting pension of Rs.13,895/- per month coupled with the fact that he has to take care of his old parents and son, this Court finds that the maintenance awarded by the family Court does not warrant any interference.

So far as the plea of learned counsel for the petitioners that even while granting interim maintenance vide order dated 18.01.2017, the family Court held that at the time of his retirement, commutation amount taken by the respondent is lying with him and granted interim maintenance @ Rs.8,000/- per month (Rs.5,000/- per month to petitioner No.1 and Rs.3,000/- per month to petitioner No.1) is concerned, the same cannot be accepted for the reason that the aforesaid maintenance of Rs.8,000/- per month was not final, rather, it was interim in nature during pendency of the petition. However, vide impugned judgment dated 10.09.2018, the family Court has

granted maintenance of Rs.5,000/- per month (Rs.3,000/- per month to petitioner No.1 and Rs.2,000/- per month to petitioner No.2) after considering the evidence available on record. Therefore, this Court does not find any illegality in the impugned judgment dated 10.09.2018 passed by the family Court.

Accordingly, affirming the impugned judgment dated 10.09.2018 passed by learned Principal Judge, Family Court, Rohtak, the present criminal revision, being devoid of any merit, is dismissed.

January 30, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No