

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRR(F) No.276 of 2020
Date of Decision.06.03.2020**

Rajesh Kumar

...Petitioner

Vs

Piyush and another

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. J.S. Cooner, Advocate
for the petitioner.

-.-

JAISHREE THAKUR J. (ORAL)

The petitioner is aggrieved against the order dated 28.01.2020 wherein he has been directed to pay enhanced amount of maintenance @ ₹7500/- per month to each of the respondents, who are his two minor children.

In brief facts are that the petitioner Rajesh Kumar solemnized a marriage with Deepti Sharma and out of this wedlock, twins were born to the couple. However, on account of differences, which arose between the petitioner and his wife, they started to reside separately. The minor children are in the custody of mother and residing with her. The minor children through their mother filed a petition under Section 125 Cr.P.C claiming maintenance titled as Piyush and another Vs. Rajesh Kumar whereas their mother also filed a petition claiming maintenance for herself titled as Deepti Sharma Vs Rajesh Sharma. Both the petitions were clubbed together and decided by the Family Court, Ambala vide order dated 30.11.2012 whereby the petition filed by Deepti Sharma was dismissed, however, the Family Court allowed the petition filed by the minor children and granted them

maintenance @ ₹5000/- per month to each of the minor child.

Aggrieved against the said order of maintenance, two petitions came to be filed. One by the father namely the petitioner herein titled as Rajesh Kumar Vs. Piyush and another whereas the minor children too filed a petition titled as Piyush and another Vs. Rajesh Kumar before the High Court. The petitioner pleaded that mother of the minor children is also serving as a Primary Teacher and getting salary @ ₹45,000/- per month and that the maintenance of the minor children should be borne equally by both the parents. He pleaded that he had old aged parents suffering from age related diseases and one brother, who is unmarried and dependent upon him. The petition was contested and vide order dated 28.01.2016, this Court reduced the amount of maintenance to ₹2800/- per month to each child considering the fact that the minor children were only two years old at that time.

Subsequent to the passing of the order dated 28.01.2016 by this Court, a revision petition came to be filed under Section 127 Cr.P.C. for enhancement of maintenance to the minor children claiming that the amount of maintenance that has been fixed @ ₹2800/- per month per child is on the lower side, considering the fact that children have now grown up and their needs have increased. The evidence was led regarding monthly expenditure towards fee and other expenses of the children, who were shown to be students of 5th standard as well as towards the income of both parents. Based on the evidence led, the Principal Judge, Family Court, Ambala directed the father, who is petitioner herein, to pay maintenance @ ₹7500/- per month for each child from the date of the order, which has been assailed

by him in the present petition.

Learned counsel appearing on behalf of the petitioner contends that the mother is earning and getting a regular salary @ ₹45,000/- per month and therefore, the expenses have to be borne equally by both the parents. It is also contended that the mother of the two children has no other liability except of her own whereas he has liability of maintaining his brother and parents.

I have heard learned counsel for the parties. A perusal of the order as passed would reflect that the petitioner herein has admitted to a gross salary of ₹51,173/-for the month of October 2018, while admitting that he is getting facility of a government quarter. The Court below took into notice the fact that he has a carry home salary of ₹30,700/- per month and out of this salary, he is depositing a sum of ₹15,000/- per month in the GPF account, which would be considered as his saving. The Family Court noted that father of the petitioner had retired from Delhi police and was getting pension, apart from holding two acres of agricultural land in District Ambala. In such a situation, when father of the petitioner has an individual income and immovable assets of his own, it cannot be said that parents are dependent upon the petitioner. The plea as set up by the petitioner that he had responsibility to look after his brother was also not substantiated as there was no medical evidence produced on record to establish any dependency or incapability of the brother to earn a decent wage. In fact, it has come on record that the brother is working with the police and has his own independent quarter. Whereas the mother of the minor children was able to establish that she was getting a salary of ₹43,000/- per month, out of

which she had to spend an amount of ₹15,000/- to ₹18,000/- per month on rent, electricity etc, which would leave her with a meager amount of ₹25,000/- per month, out of which she had to meet school expenses of the minor children, apart from her own daily expenses. Taking all factors into consideration, the Family Court rightly allowed an amount of ₹7500/- to be paid towards each of the minor child.

The argument raised by counsel for the petitioner that it is the responsibility of the both parents to bring up children and financial aspect has to be divided equally is not sustainable to the extent that responsibility and burden of the care giver is much higher than the person, who only parts with cash. In a day to day life, there are various expenses that occur while bringing up children, which do not get accounted for. Very often, the care giver/single parent, who is responsible for upbringing or who has custody of the children has to face issues relating to education and medical of the children and has to cope with the social issues or the issues relating to their growing age. Such emotional support given by a care giver/single parent cannot be quantified in terms of any monetary value and therefore, this Court finds no ground to interfere with the order impugned in the instant petition.

Dismissed.

(JAISHREE THAKUR)
JUDGE

March 06, 2020
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No