

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

CRR(F) No.120 of 2016 (O&M)
Date of Decision: January 21, 2020

Lakhvir Singh

...Petitioner

Versus

Gurjot Singh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Amandeep Singh Rai, Advocate
for the petitioner.

Mr. Hitesh Verma, Advocate
for the respondent.

JAISHREE THAKUR, J. (Oral)

1. By way of instant criminal revision, the petitioner herein seeks to challenge the judgment dated 10.03.2016 passed by the District Judge, Family Court, Banala in Criminal Misc. MNT No.02 of 13.01.2011 titled as “*Gurjot Singh vs. Lakhbir Singh*”.

2. In brief, the facts of the case are that a marriage was solemnized between Rajo Devi, mother of the respondent with the petitioner on 08.07.2007 through Sikh rites, out of which wedlock one son, namely Gurjot Singh was born. On account of matrimonial discord between the father and mother of the respondent, a petition under Section 13 of the Hindu Marriage Act was filed by the mother of the respondent, which was decreed by the Addl. District Judge, Barnala. Since the minor had no source

of income, neither was his mother in a position to maintain herself and the minor, a petition under Section 125 Cr.P.C. was filed by the minor through his natural guardian/mother against his father, the petitioner herein. The petition was contested by the petitioner and eventually, the Family Court directed that maintenance be paid to the respondent-Gurjot Singh @ ₹ 5000/- per month from the date of the order, which order has been challenged before this court through the instant criminal revision.

3. Learned counsel appearing on behalf of the petitioner urges that earlier a compromise had been arrived at between the parties wherein, it had been decided that the minor child born to the petitioner and his wife (now divorced wife) would remain with him, while contending that both, the petitioner and mother of the respondent are teachers and therefore, a duty is cast upon the mother as well to maintain the minor child. It is also submitted that now the petitioner is re-married and has a family of his own to support, therefore, the amount of maintenance assessed ought to be reduced.

4. Per contra, learned counsel appearing on behalf of the respondent urges that there is no infirmity in the judgment so passed, while urging that the respondent has no means to maintain himself other than being dependent upon his mother and father. It is argued that the father of the respondent being in Govt. service, was earning a sum of ₹ 40,000/- per month and the said figure of salary pertained to the year 2011, as such, the amount of maintenance cannot be held to be excessive.

5. I have heard learned counsel for the parties, apart from perusing the pleadings of the case and the impugned judgment.

6. It is an admitted fact that the respondent herein is the minor child of Lakhbir Singh, the petitioner and Smt. Rajo Devi, who have subsequently obtained a decree of divorce from the Addl. District Judge, Barnala on 03.01.2011. There is also no dispute about the fact that a parent is supposed to maintain his minor child and the provisions as entailed under Section 125 Cr.P.C. would be applicable. The petitioner herein being a Govt. teacher was admittedly earning a salary of ₹ 40,000/- per month, as noticed by the Family Court, Barnala and this was based upon the evidence led before it. Since the year 2016, the petitioner herein would have been entitled to revision in his pay scale on the basis of the recommendation made by the 6th Pay Commission. Even though the mother of the respondent is in Govt. service, but the factors like rise in daily expenditure and cost of living and the requirement of the young minor child to education etc. cannot be ignored. The role of the mother cannot be belittled nor quantified in terms of money, as she is also the care giver on a daily basis. No doubt, the mother would take care of the emotional and other needs of the minor child, apart from providing him a stable home environment, but that does not mean that the father can shirk his responsibility towards the welfare of his minor child. The plea that the petitioner has subsequently re-married and has a child from the wedlock, cannot under any circumstances absolve him from his responsibility of paying maintenance to the respondent-minor child, which in the opinion of the court is not excessive.

7. The plea as raised that the petitioner is willing to take over the custody of the respondent-minor child is a plea available to him in other appropriate proceedings for the custody of the minor child and not in the

present proceedings initiated under Section 125 Cr.P.C. The petitioner is always at liberty to claim for the custody of the respondent-minor child on the basis of compromise arrived at between the parties in independent proceedings.

8. In view of the above discussion, this court finds no infirmity or illegality in the impugned judgment. Consequently, the criminal revision in hand is hereby dismissed.

January 21, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No