

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

CRM-M No.36472 of 2019
Date of Decision.12.02.2020

Charan Singh

...Petitioner

Vs

Paramjit Kaur

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Manish Kumar Singla, Advocate and
Mr. Dinesh Kumar, Advocate
for the petitioner.

Mr. R. Singh, Advocate
for the petitioner.

-:-

JAISHREE THAKUR J. (ORAL)

This is a petition that has been filed seeking to challenge the order dated 20.08.2018 whereby the amount of maintenance awarded under Section 125 Cr.P.C. has been enhanced from ₹3000/- to ₹6,000/- per month without effecting service upon the petitioner herein.

Admittedly, an application under Section 125 Cr.P.C. was filed by respondent-Paramjit Kaur seeking maintenance from Charan Singh s/o Rakha Singh, who is petitioner herein. It appears that the petitioner did not put in appearance before the Chief Judicial Magistrate, Fatehgarh Sahib. Consequently, he was proceeded ex parte vide order dated 6.11.2015. The Chief Judicial Magistrate assessed the maintenance @₹3000/- per month payable to the wife from the date of order.

Aggrieved against the inadequate amount of maintenance, a revision petition was filed seeking enhancement before the Sessions Judge,

Fatehgarh Sahib. It appears that by an order dated 27.07.2018, the Sessions Judge dispensed with service upon the petitioner, since he had been proceeded ex parte before the trial Court and then proceeded to deal with the case and enhanced the amount of compensation.

Counsel for the petitioner herein would contend that the petitioner has no source of income other than the pension account, which stands attached, while further contending that the impugned order has been passed in violation of principles of natural justice, as the same was passed without hearing the petitioner herein.

Learned counsel for the respondent submits that order dated 20.08.2018 is a well reasoned order passed by the Sessions Judge, Fategarh Sahib and no interference is called for.

I have heard learned counsel for the parties and have perused the paper book. The Sessions Judge, Fategarh Sahib vide order dated 27.07.2018 while proceeding the petitioner herein *ex parte* merely observed that since he was already *ex parte* before the lower court, so he need not be summoned in the revision petition. It is settled law that no person can be condemned unheard. No doubt, petitioner herein was ex parte before the lower court but in revision petition, an attempt should have been made to effect service upon the petitioner and in absence of the same, in my view, the impugned order is not sustainable in the eyes of law, having been passed in violation of principles of natural justice. Consequently, order dated 20.08.2018 is set aside and the instant petition is allowed. However, the petitioner shall continue to pay maintenance @ ₹3000/- per month to the respondent-wife and an amount of ₹25,000/- be released in favour of wife-

Paramjit Kaur from the account of the petitioner, which has been attached on account of part satisfaction of the same.

(JAISHREE THAKUR)
JUDGE

February 12, 2020

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No