

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

1)

**CRR(F)-596-2019
Decided on : 09.01.2020**

Sahil Goyal

... Petitioner(s)

Versus

Kajal and another

... Respondent(s)

2)

CRR(F)-806-2019

Kajal and another

... Appellant(s)

Versus

Sahil Goyal

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rakesh Gupta, Advocate
for the petitioner(s) (in CRR(F)-596-2019) &
for the respondent(s) (in CRR(F)-806-2019).

Mr. Pawan Kumar, Sr. Advocate with
Mr. Surya Kumar, Advocate
for the petitioner(s) (in CRR(F)-806-2019) &
for the respondent(s) (in CRR(F)-596-2019).

MANJARI NEHRU KAUL, J.

By way of present revision petition (CRR(F)-596-2019), the petitioner has prayed for setting aside the impugned order dated 17.07.2019, passed by the Ld. Additional Principal Judge, Family Court, Patiala (hereinafter referred to as 'Ld. Family Court'), whereby, the petitioner-Sahil Goyal was directed to pay a sum of ₹ 7000/- per month (₹ 4000/- to respondent No.1-wife Kajal and ₹ 3000/- to respondent No.2-son Manhar)

as interim maintenance, in the petition filed by the respondents under Section 125 Cr.P.C. for grant of maintenance allowance. On the other hand, in the connected criminal revision i.e. CRR(F)-806-2019, filed by the petitioners (respondents No.1 & 2 in CRR(F)-596-2019), have prayed for modification/enhancement of the interim maintenance granted by the Ld. Family Court vide impugned order dated 17.07.2019.

It is not disputed that the petitioner and respondent No.1 got married on 29.07.2012 as per Hindu rites and ceremonies and a child namely Manhar was born out of the wedlock on 08.08.2013, who has been staying with his mother Kajal, at the latter's parental home ever since his birth.

Learned counsel appearing on behalf of the petitioner-Sahil Goyal has contended that the interim maintenance fixed by the Ld. Family Court was grossly on the higher side and while assessing the said maintenance, the Ld. Family Court had failed to appreciate that the petitioner was earning just ₹ 5000/- per month, while assisting in his father's business. It was further contended that the Ld. Family Court fell in error by not appreciating that the respondents had failed to prove the income as well as the property of the petitioner while assessing the maintenance. Not only this, respondent No.1 – Kajal was a postgraduate and earning more than ₹ 50,000/- per month by giving tuitions.

On the other hand, learned counsel appearing on behalf of the respondents contends that the amount of interim maintenance assessed is on the lower side and in fact the husband was in the business of Fastway cable network besides running a General store from which his income was at least

Rs. 50,000/- per month, if not more. It was also brought to the notice of this

Court that the husband was in arrears, as he had not been paying interim maintenance as awarded by the Ld. Family Court vide order dated 17.07.2019, as a result of which, the respondent-wife and the minor son had been left to the mercy of the wife's parents and thus facing acute financial hardship.

I have heard the arguments addressed by the counsel for the parties and perused the other material on record.

After going through the pleadings and other material on record, I find that the amount of maintenance as assessed by the Ld. Family Court is inadequate and needs to be reassessed.

Needless to say while assessing and awarding maintenance, not only the status of the parties would have to be considered but also the financial capacity of the husband to pay the maintenance coupled with the fact whether the wife had any other source of income for herself and her child.

Admittedly, the respondent wife along with her minor son has been residing separately from the petitioner-Sahil Goyal for the last more than two years and as such she would definitely require funds for the education and upbringing of their child. The husband is an able-bodied person and has no other liability as well.

The Ld. Family Court has been rather frugal in assessing his income between ₹15,000/- - ₹20,000/- without appreciating the fact that admittedly he is actively involved in his father's business of Fastway Cable Network and Grocery Store. It cannot be digested and does not appeal to reason that the petitioner would be drawing just ₹ 5000/- p.m. as salary while assisting his father in his business. Another fact which requires

consideration is that the standard of living of the petitioner would natural be the same as his father's with whom he is admittedly residing. It goes without saying that the income of the petitioner from his father's business would definitely be higher than what has been assessed by the Ld. Family Court. Further, except for his bald averment, nothing has been brought on record by the petitioner to show that respondent No.1-Kajal (wife) is having any income from any source.

In the circumstances, this Court is of the view that the maintenance awarded to respondents No.1 & 2 should be enhanced from ₹7000/- per month to ₹ 15,000/- per month (₹ 8000/- to respondent No.1-wife Kajal and ₹ 7000/- to respondent No.2-son Manhar). It is further clarified that the arrears of interim maintenance, if any, shall be paid by the husband-Sahil Goyal forthwith to the wife-Kajal and son Manhar within four weeks from the date of passing of this order.

With the above modifications, CRR(F)-806-2019 for modification/enhancement filed by Kajal and Manhar is partly allowed and CRR(F)-596-2019 filed by the Sahil Goyal stands dismissed.

**(MANJARI NEHRU KAUL)
JUDGE**

January 09, 2020

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No