

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

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**CRR(F) No.409 of 2018 (O&M)
Date of decision:25.03.2022**

Savita and another

... Petitioners

Vs.

Ved Pal

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ram Kumar Saini, Advocate
for the petitioners.

SUVIR SEHGAL J.

CRM No.28132 of 2018

For the reasons given in the application, it is allowed.

Delay of 185 days in filing the petition, is condoned.

CRR(F) No.409 of 2018

Instant revision petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”), for seeking modification of the order dated 14.07.2017 passed by Family Court, Hisar, whereby, monthly maintenance of Rs.6,000/- i.e. Rs.3,000/- to each of the petitioners has been awarded from the date of the application, besides Rs.5500/- as litigation expenses under Section 125 of the Code.

Facts, in brief, leading to the filing of the petition are that petitioner No.1 was married to respondent on 24.02.2012 and a huge expenditure was incurred by her parents at the time of marriage and she was given sufficient dowry and valuables as per the demand of respondent and his family members, who were not satisfied. They started raising demand of more expensive car, tormented petitioner No.1 and kept her without food for

a number of days. She tolerated their inhuman behaviour in the hope that things will change with the passage of time. Despite attempts by the panchayat, her in-laws persisted with their demands, even after the birth of a child. She was turned out of the matrimonial home on 05.03.2013 after being physically assaulted by the respondent and his family members. She has claimed that respondent has a huge monthly income as he has agricultural land and is earning from business. By way of petition filed under Section 125 of the Code, she has sought monthly maintenance of Rs.40,000/-. Petition has been contested by the respondent by filing the reply, wherein, he has submitted that petitioner no.1 is a lady of hot temperament, who did not adjust in her matrimonial home and used to create ugly scenes in front of the guests and relatives. She did not adjust in the family set-up, has a M.Sc degree and was working at the time of her marriage and even thereafter, whereas, the respondent is helping his parents in agricultural activity. It has also been stated that the petitioner is getting maintenance of Rs.10,000/- per month in a petition filed by her under the Protection of Women from Domestic Violence Act, 2005. Both the parties have filed their respective affidavits and led evidence in support of their claims. After considering the same, the Family Court, Hisar, vide order dated 14.07.2017, has awarded monthly maintenance to the petitioners as noticed above.

Heard counsel for the petitioners.

The relationship between the parties is admitted. A son was born out of the wedlock and is in the custody of petitioner No.1, who is residing separately from the respondent due to differences. Though separate reasons for separation have been given by both the sides but the common

stand of both the parties is that despite attempts by the panchayat, the differences between the parties could not be resolved. A conclusion can be drawn that separation is because of estrangement between the parties.

Petitioner No.1 is a Post Graduate and was teaching before and even for a short while after marriage as per the stand of the respondent. It is not the case of the respondent that she is currently employed and has any source of income. On the other hand, although it has been claimed that the respondent is irrigating 10 acres of land which is in the name of his father in the revenue record, yet there is no material on the record to establish his monthly income of Rs.96,000/- as has been claimed by petitioner No.1. There is also nothing on record to substantiate the claim of petitioner No.1 that the respondent is doing dairy business or earning handsomely from property dealing. In these circumstances, the Court has no option, but to draw an assumption as to monthly income of respondent. A safe presumption can be drawn that the respondent, who admittedly is involved in agricultural pursuit and is an able bodied person, must be earning more than Rs.25,000/- to Rs.30,000/- per month from agricultural activity. In this background, award of consolidated monthly maintenance of Rs.6,000/- to the petitioners cannot be said to be unreasonable. This Court, is therefore, of the view that there is no illegality or perversity in the order under challenge, which does not call for any interference.

Petition is dismissed.

(SUVIR SEHGAL)
JUDGE

March 25, 2022

savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes