

In the High Court of Punjab and Haryana at Chandigarh

116

CRR(F)-86 of 2023

Date of Decision: 19.1.2023

Aakriti and another

---Petitioners

versus

Lalit Ahuja

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sandeep Kotla, Advocate
for the petitioners

JAGMOHAN BANSAL, J. (ORAL)

The petitioners, through the instant petition, are seeking modification of order dated 7.12.2022 whereby Additional Principal Judge, Family Court, Hisar has awarded maintenance of Rs. 15,000/- to petitioner No. 1-wife and Rs. 5,000/- to petitioner No. 2-minor daughter of the respondent.

Learned counsel for the petitioners inter alia contends that as per income tax return of assessment year 2021-2022 of respondent, the gross salary of respondent is Rs. 12,60,601/- and respondent is getting income from agricultural share holding. He is having rental income. The respondent has not disclosed his income from other sources in the ITR and trial court has wrongly considered his income as Rs. 90,000/- per month. The trial court has accordingly granted interim maintenance of Rs. 20,000/- per month to the petitioners without appreciating actual income of the respondent, thus, impugned order is contrary to the fact and figures which are already on record.

I have heard learned counsel for the petitioner and perused the record.

The relevant extracts of order dated 7.12.2022 passed by the trial court read as:-

“The present application has been filed by Smt. Aakriti for herself and on behalf of her minor daughter namely

Tyishya who is at present in her care and custody. Admittedly the marriage between the applicant No. 1 and respondent took place on 21.9.2018. That out of this wedlock applicant No. 1 was born who is at present in the care and custody of the applicant No.1. The applicant No. 1 has raised allegations of demand of dowry, ill treatment and beatings upon the respondent and his family members. She has also alleged that the respondent is having illicit relations with some other girls. On the contrary the respondent has averred that all the allegations levelled by the applicants are false and concocted and that the applicant no.1 has sufficient means of income at her disposal, therefore she does not require any maintenance from the respondent. The applicant no.1 in her affidavit of assets and liabilities has submitted that she has no source of independent income and she is unemployed. On the contrary the respondent in his affidavit of assets and liabilities has submitted that he is working with J.C.B. India as Deputy Manager and his monthly salary is 91,500/-. He has also mentioned that he is also having shares of 5 lacs and his liabilities includes a car loan and personal loan. He has nowhere mentioned that he is having any share in agricultural land as alleged by the applicant no.1 and having rental income from the shop. These facts are yet to be proved by the applicants. From the perusal of the documents placed on record by both the parties and after going through the affidavits of assets and liabilities this Court is of the view that the respondent is earning approximately 94,000/- per month as per his account entry dated 30.08.2022. The respondent has denied this fact that he is having any

other source of income. This Court, at this stage, is of the view that the applicant no. 1 being legally wedded wife is entitled to 15,000/- per month as maintenance and the applicant no.2 being daughter of the respondent is entitled to 5,000/- per month as interim maintenance from the respondent. The applicants are entitled to maintenance from the date of the application. Applicants are also held entitled to one time litigation expenses to the tune of 5,500 It is made clear that any amount paid by the respondent towards maintenance shall be liable to set off from the maintenance amount awarded to the applicants by way of present application. The applicant no.1 is directed to furnish her bank account to the respondent and the respondent is directed to make the payment of maintenance in said account on or before the 7th day of every month. Application is partly allowed.”

It is undisputed fact that trial court has awarded interim maintenance and final order is yet to be passed. The trial court has considered salary slip of the respondent showing salary of Rs. 94,000/- and accordingly awarded interim maintenance of Rs. 20,000/- per month.

Without expressing any opinion on merits of the case, the present petition is disposed of with a request to trial court to expedite the final disposal, preferably within six months, after considering income tax return as well as other evidences led by the present petitioners.

(JAGMOHAN BANSAL)
JUDGE

19.1.2023
paramjit

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