

In the High Court of Punjab and Haryana at Chandigarh

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CRR(F)-153 of 2023

Date of Decision: 13.02.2023

Radhika Sharma and another

---Petitioners

versus

Ankush Sharma

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Nupur Sood, Advocate
for the petitioners

JAGMOHAN BANSAL, J. (ORAL)

The petitioners, through the instant petition are seeking modification of order dated 01.11.2022 whereby Principal Judge Family Court, Panchkula has allowed interim maintenance of Rs. 35,000/- per month to petitioner No. 2 whereas no maintenance has been awarded to petitioner No. 1.

Brief facts of the case are that the marriage of petitioner No. 1 was solemnized with respondent on 02.05.2015 according to Hindu rites and ceremonies. From this wedlock, petitioner No. 2 was born. Petitioner No. 1 and respondent are working in private sector. Both are getting handsome salary. Petitioner No. 1 is getting gross salary Rs. 2,04,550/- and gross salary of respondent is Rs.3,83,847/-. The petitioner is staying with her son in a separate accommodation. The petitioner preferred petition under Section 125 Cr.P.C. seeking maintenance for herself as well her son. The Principal Judge Family Court, Panchkula, after considering salary of both sides, has awarded

maintenance of Rs. 35,000/- to petitioner No. 2 and no maintenance has been awarded to petitioner No. 1.

Learned counsel for the petitioners inter alia contends that salary of respondent is almost double of the salary of petitioner No. 1 and as per settled principle of law, she deserves same status as of her husband. The respondent is bound to provide the same amenities and facilities to the petitioners which he is enjoying. The petitioner is paying school fees of the child who is studying in a private school at Panchkula. In alternative, she prays that Family Court may be directed to determine final maintenance expeditiously.

I have heard counsel for the petitioners and perused the records.

The relevant extracts of order dated read as:-

“10. As already discussed, it is clear that the petitioner No.1 is employed and her monthly salary/earnings are in the sum of Rs.1,52,441/-, but it cannot be lost sight that the minor child of the parties is exclusively dependent upon her in all respects including his educational expenses. In nutshell, it can be said that the minor child is entitled to interim maintenance. As per the version of the petitioner No.1-wife, she has no sufficient income to maintain the minor child i.e. petitioner no.2. It is settled law that for the purpose of fixing interim maintenance, the gross salary/income is to be

considered. As already discussed, the respondent is working as Staff Engineer with Micron Technology Operations Private Limited. In the pay slip for the month of January 2022, the gross salary of the respondent is stated to be Rs.3,83,847/- and his net salary is Rs.1,74,781/-. He is making various deductions including income tax. In these circumstances, if a reasonable amount in commensuration with the earnings of the respondent is fixed as interim maintenance for the petitioner No. 2, it shall suffice.

13. From the above discussed, it is clear that the salary/earnings of the respondent are much more than that of the petitioner No. 1, but it cannot be said that she is unable to maintain herself with her earnings. As such, she cannot be said to be entitled to any maintenance from the respondent....”

From the perusal of findings recorded by trial court while awarding interim maintenance allowance, it is succinctly clear that trial court has duly considered existence of marriage between the parties, income of the petitioner, income of the respondent, responsibility of the respondent towards his legally wedded wife and children. It is settled proposition of law that amount of maintenance awarded must be in consonance with status of the family and income of the husband. The object of maintenance is to prevent the wife and children from being driven to destitution and vagrancy, however, courts cannot fix amount

of maintenance contrary to income and status of parties. The respondent being husband and father of minor kid has social, ethical and statutory responsibility to maintain his family. The trial court has taken care of all these aspects.

Finding no factual or legal infirmity in the impugned order, warranting interference by this court, present petition deserves to be dismissed and accordingly dismissed.

The maintenance awarded by Family Court is interim, thus, petitioner would get opportunity to put forth his stand at the time of determination of final maintenance.

This Court finds substance in the prayer of learned counsel that Family Court may be directed to expedite the final determination of maintenance. Family Court at Panchkula is requested to expedite the final determination of maintenance and preferably within three months from the date of receipt of certified copy of this order, needful be done.

(JAGMOHAN BANSAL)
JUDGE

13.02.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No