

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**  
**110** **CRR-F-291-2023 (O&M)**  
**Date of decision: 06.09.2023**

**Jaswant Kaur @ Kanto**

**...Petitioner(s)**

**Vs.**

**Dharam Pal Singh**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: - Mr. Jaideep Verma, Advocate  
for the petitioner.

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**NIDHI GUPTA, J.**

Prayer in the present petition is for enhancement/modification of order dated 08.12.2022 whereby learned Family Court Ludhiana in an application filed by the petitioner-wife under Section 125 Cr.P.C. has granted final maintenance of Rs.10,000/- per month with 5% increase per annum, to the petitioner-wife.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to respondent on 23.01.2000. No child was born out of this wedlock. Parties have been living separately since November, 2004. It is submitted that the petitioner is entitled for enhancement of maintenance as respondent-husband is an Ex-serviceman retired from Indian Army receiving handsome retiral benefits and drawing pension of more than Rs.40,000/- per month and even has agricultural property in his name. It is further submitted that respondent is working as a Security Officer in a Bank and earning more than Rs.25,000/- per month. It is submitted that the respondent also owns commercial property measuring 4

kanal comprised in K/Kh. 836/102 Khasra No.78 situated in village Lahora, Tehsil and District Ludhiana. Therefore, the respondent is earning more than Rs.1 lakh per month and hence, final maintenance of only Rs.10,000/- per month as awarded to the petitioner is on the lower side and deserves to be enhanced.

3. I have heard learned counsel for the petitioner.

4. Perusal of record reveals that although impugned order has been passed, ex-parte against the respondent, however, notice was served upon the respondent who appeared through counsel and filed reply in which though factum of marriage was admitted, however, preliminary objections regarding maintainability, estoppel and misrepresentation of facts and abuse of process of law were taken. In the reply filed on behalf of the respondent before the learned Family Court, respondent had also denied that the petitioner was ever ill-treated on account of demands for dowry, and had stated that in fact, it was the petitioner who was a quarrelsome lady who did not respect the respondent and treated him and his family members with cruelty. It had further been averred that as the respondent was serving in the Army therefore, in his absence the petitioner had developed illicit relationship with one Nirmal Singh who was Granthi in a Gurudwara and the respondent had even caught both of them red handed. Thereafter, the matter had been compromised on 23.03.2001. In the said reply, it had also been averred that the petitioner herself had left the company of the respondent on 03.01.2004 and she was doing work of stitching and earning Rs.15,000/- per month. It was even denied that

respondent was receiving Rs.40,000/- as pension or he was serving as a Security Officer in a Bank or he was having any immovable property commercial or residential. It had been averred that the respondent is a retired person and living on his pension.

5. Although, thereafter, the respondent was proceeded against ex parte, however, the learned Family Court after appraisal of all the evidence and facts on record had returned the following findings:-

*“15. The respondent is stated to be a man of means and an able bodied person. However, in order to prove the income of respondent, the petitioner has placed on record copy of pension slip of the respondent for the month of February, 2021, as Ex. P2 as per which the respondent is shown to be earning pension income of about Rs.27,000/- per month and after deductions, he is getting carry home pension to the tune of about Rs.15,500/- per month. Further, in order to prove the income of the respondent, the petitioner has also examined PW3 Ashok Kumar, Senior Head Messenger/Record Keeper, State Bank of India, Branch Shimlapuri, who proved the copy of pension slip of respondent for the month of November, 2021 as Ex. CW3/A, as per which his gross pension (consolidated) was Rs.2,09,280/-, taxable income was Rs.1,59,280/-, total earnings as Rs.2,780/- and total pension paid as Rs.2,780/- and there was a note underneath Ex. CW3/A to the effect that the current month pension slip was not available because from DRC-21, it has been migrated to sparsh portal, copy of pension slip of respondent for the month of October, 2021 as Ex. CW3/B, as per which his gross pension was Rs.2,06,500/-, taxable income was Rs.1,56,500/-, the total earnings as Rs.29,632/- and the total pension paid as Rs.18,057/- after total deductions of Rs.11,575/-. Ex. CW3/D, the bank statement of the respondent*

*shows that the respondent has received salary on 08.07.2022 to the tune of Rs.11,199/-. On the other hand, after closure of the evidence of the petitioner, the respondent has not come present and has been proceeded against exparte. So keeping in view the facts and circumstances of the case, this Court has no hesitation to hold that the respondent might be earning not less than Rs.30,000/- per month. In these circumstances, it would be just and proper if the respondent is directed to pay a sum of Rs.10,000/- per month to the petitioner as maintenance from the date of filing the petition.*

*16. As a result of above discussion, the application u/s 125 of the Code of Criminal Procedure bearing **CIS no. MNT125/1317/2019, CNR no. PBLD010064512019** is partly allowed exparte with an order that the respondent shall pay a sum of **Rs.10,000/- per month to the petitioner as maintenance from the date of filing the petition.** Considering the rate of inflation, it is ordered that the petitioner shall be entitled to get maintenance increased at a flat rate of 5% per annum from the date of passing this order and this increase shall start after the lapse of one year from today. It is further directed that the respondent shall pay the amount of maintenance by the 10<sup>th</sup> of every month and in case, the petitioner has to file the execution for realization of the amount, the respondent shall have to pay the reasonable litigation expenses as well every time in addition to the amount of maintenance. However, anything paid in terms of interim maintenance during the pendency of the petition shall be liable to be adjusted from the amount of maintenance awarded. File be consigned to the record room.”*

6. From a perusal of the above said findings, it is unequivocally established on record that the respondent is drawing a pension of about only Rs.15,000/- per month. The same has also been proven to be true by prosecution witness PW3 Ashok Kumar. By way of the bank account statements of the respondent produced by PW3, it has also been proven on record that the petitioner has made highly exaggerated assertions in respect of the income of the respondent. Moreover, learned counsel for the petitioner is unable to dispute or controvert the above said findings of the learned Court below in any manner whatsoever. Nothing has been produced on behalf of the petitioner to indicate that the above said findings of the learned Court below are incorrect.

7. In view of the above undisputed facts, I find no ground is made out to interfere in the impugned order.

8. **Dismissed.**

9. Pending application(s) if any also stand(s) disposed of.

**06.09.2023**

Sunena

**(Nidhi Gupta)**

**Judge**

**Whether speaking/reasoned: Yes/No**

**Whether reportable: Yes/No**