

104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1997-2019
Date of Decision :23.03.2023

Sahil Kumar Chaudhary ...Petitioner

versus

Rajni ChaudharyRespondent

CR-3033-2019
Date of Decision :23.03.2023

Rajni Chaudhary ...Petitioner

versus

Sahil Kumar ChaudharyRespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Manoj Kumar, Advocate for the petitioner in
CR-1997-2019 and for the respondent in CR-3033-2019.

Mr. Arun Dogra, Advocate for the petitioner in
CR-3033-2019 and for the respondent in CR-1997-2019.

B.S. Walia, J. (Oral)

1. This order shall decide CR-1997-2019 and CR-3033-2019.

While CR-1997-2019 has been filed by the husband-father, CR-3033-2019 has been filed by the wife-mother against order Annexure P/1 / P/8 dated 21.01.2019, passed by the learned Addl. District Judge, SAS Nagar, awarding monthly maintenance of Rs.20,000/- to the minor child of the parties i.e.Bhavin Chaudhary, along with Rs.15,000/- as litigation expenses

to the respondent in CR No. 3033-2019.

2. Learned counsel for the petitioner-husband-father contends that the maintenance of Rs. 20,000/- pm awarded to the minor child of the parties is on the excessive side, therefore should be reduced, while learned counsel for the wife-mother, contends that the maintenance awarded to the minor child is on the lower side and should be enhanced, besides the impugned order modified by awarding her maintenance also.

3. I have heard learned counsel. It is the admitted position between learned counsel for the parties that the father of the child of the parties is working as Deputy Manager, LG Electronics and was drawing monthly salary of Rs.1,18,676/- as on 28.08.2018 as is evident from Annexure P/9 in CR No. 1997-2019, out of which, he was making voluntary deduction of Rs.26,974/- on account of provident fund besides deduction of Rs.14,556/- on account of income tax while the respondent-wife is a qualified BDS doctor besides qualified MBA and earning Rs.30,000/- from the job of Coordinator as admitted by her in her application under Section 24 of the Hindu Marriage Act.

4. Learned counsel for the respondent-wife vehemently contends that although the respondent-wife is qualified as BDS besides MBA, yet she is not doing multi tasking and is only working as Coordinator and getting monthly remuneration of Rs.30,000/- whereas not only is she looking after the minor child but managing the house, cooking meals, washing clothes of her son as also herself, besides looking after his educational needs etc. Learned counsel for the wife further refers to receipt Annexure P/6 issued by the Gurukul School, Panchkula, showing fee including transportation charges for the month of November, 2017 for Bhavin Chaudhary @ Rs.9275/- and states that the monthly fee and transportation charges have gone up further due to promotion of the child to a higher class and increase

in fees towards tuition and transportation charges.

5. I have considered the submissions of learned counsel.

6. Admittedly, the parties have one child namely Bhavin Chaudhary, aged around 8 years studying in Class 3 in Gurukul School, Panchkula with the petitioner-husband-father having a carry home salary of Rs.70403/-, after deduction of Rs.14,556/- towards income tax and Rs.26,974/- as voluntary provident fund as in August 2018. The wife on the other hand admittedly has income of Rs.30,000/-. Although on account of lapse of approximately 4½ years, net carry home salary of the petitioner father and mother would definitely have gone up from Rs.70,403/- / Rs. 30,000/- which the petitioner father and mother were drawing in August, 2018, the monthly fee and transportation charges besides other expenses of the child would also have invariably gone up. It also needs noticing here that the respondent-wife also has to spend money on herself and although she is stated to be residing in her parental house after the death of her father, she must be contributing money to her widowed mother on account of house rent besides meeting the day to day expense. However, in the absence of details of actual expenses being incurred by the petitioner-wife-mother on the child as also on herself, besides material to show the increase in income of the petitioner-father-husband as also the income of the petitioner-wife-mother, I do not find any ground whatsoever to interfere with order 21.01.2019, passed by the learned Addl. District Judge, SAS Nagar, awarding monthly maintenance of Rs.20,000/- to the minor child and Rs. 15,000/- as litigation expenses to the respondent while not awarding any maintenance to her. In the facts and circumstances of the case, award of maintenance of Rs.20,000/- per month for the minor child while not granting any maintenance to the respondent-wife, does not warrant any interference

as learned counsel for the petitioner-father-husband has not been able to show any cause for reduction of the same except for contending that the respondent-mother is also earning Rs.30,000/- per month while the wife-mother has not been able to show change in circumstances warranting enhancement of maintenance to the child as also for award of maintenance to her. Accordingly, finding no merit in the petitions, the same are dismissed. However, this order shall not operate as a bar to the petitioner - wife-mother to seek enhancement of maintenance to the minor child of the parties by way of appropriate proceedings in accordance with law by substantiating enhanced expenses being incurred by her on the child / on herself, and her income not being commensurate so as to meet the expenses, her income being static and or there being increase in the income of the petitioner-father-husband.

7. At this stage, learned counsel for the wife-mother states that the petitioner-husband-father has not cleared arrears on account of maintenance @ Rs.20,000/- per month awarded to the minor child. Learned counsel for the petitioner-husband-father on the other hand states that the petitioner has paid maintenance awarded to the minor child regularly and undertakes that in case there is any outstanding amount, the same would be cleared within two months from today. The statement of learned counsel for the petitioner-husband-father is taken on record and the petitioner-husband-father directed to clear the arrears if any within two months from today. Needless to mention, in case arrears of maintenance @ Rs.20,000/- per month as awarded to the minor child are not cleared within two months from today, the minor through his mother would be at liberty to take out appropriate proceedings, in accordance with law for seeking action for recovery of the same as also for violation of the orders of the learned Addl. District Judge,

CR-1997-2019 & connected case. 5

SAS Nagar, dated 21.01.2019 as upheld by this Court besides for breach of undertaking made before this Court.

(B.S. Walia)
Judge

23.03.2023
rajesh

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