

232 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-27088-2018

Date of decision: 25.08.2023

SHASHI

...PETITIONER

VERSUS

DHEERAJ KUMAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Malkeet Singh, Advocate for the petitioner.

VIVEK PURI,J. (ORAL)

1. Petitioner is seeking to set aside the order dated 18.11.2017 (Annexure P-3) passed by the Court of learned Judicial Magistrate 1st Class, Amritsar dismissing the application for rectification of the inadvertent clerical error/mistake in the order dated 15.03.2014 while allowing the application of the petitioner for grant of maintenance from the date of application wherein the amount of maintenance has not been specified.

2. Learned counsel for the petitioner contends that the petitioner had instituted a petition under Section 125 Cr.P.C for grant of maintenance against the respondent. The respondent was proceeded against *ex parte*. The petitioner had led her *ex parte* evidence and the same was disposed of in terms of order dated 15.03.2014. However, the amount of maintenance has not been specified.

The operative paragraph No.8 of the said order reads as follows:

" In view of what has been discussed above, when it is proved that petitioner is having no independent source of income to maintain herself and in these circumstances, it is pious duty of the respondent being husband of petitioner to per month to the petitioner from the date of application. The respondent is also burdened with litigation expenses to the tune of Rs.2,500/-. If the applicant had received maintenance in any other case, same should be adjusted in the instant case. File be consigned to the Judicial record room, Amritsar after due compliance."

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3. Thereafter, the petitioner had moved an application for rectification of the order dated 15.03.2014. However, the application has been dismissed by the Court on the score that as per the provisions of Section 362 Cr.P.C, the needful cannot be done.
4. It has been submitted that the amount has been inadvertently omitted to be mentioned in order dated 15.03.2014 and the same amounts to a clerical/arithmetical error and the same can be corrected as per the provisions of Section 362 Cr.P.C.
5. It is significant to note that the application under Section 125 Cr.P.C was disposed of as back as on 15.03.2014. The perusal of order is indicative of the fact that perhaps the Court was inclined to award maintenance but the amount has not been specified. It may be mentioned here that the order was passed as back as in the year 2014 and subsequently, the Family Courts have also been created.
6. In these set of circumstances, it is deemed appropriate that the matter is now remitted to the learned Family Court, Amritsar to decide the petition under Section 125 Cr.P.C titled as '*Shashi Versus Dheeraj Kumar*' (earlier disposed of in terms of order dated 15.03.2014 passed by the Court of learned Judicial Magistrate 1st Class, Amritsar) afresh on the basis of the evidence already on record.
7. Disposed of accordingly.
8. The petitioner is directed to appear before the learned Family Court, Amritsar on 18.09.2023.

25.08.2023

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(VIVEK PURI)
JUDGE

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