

**In the High Court of Punjab and Haryana at Chandigarh**

**2023:PHHC:072478**

**CRR(F)- 782 of 2023 (O&M)**

**Date of Decision: 18.05.2023**

**Smt. Bharti Sharma @ Bharti**

**---Petitioner**

**versus**

**Nakul Gautam**

**---Respondent**

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Nishant Chauhan, Advocate  
for the petitioner

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**JAGMOHAN BANSAL, J. (ORAL)**

**CRM- 22861 of 2023**

1. Allowed as prayed for.

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2. The petitioner through instant petition under Section 401 Cr.P.C. is seeking modification of order dated 06.04.2023 whereby Additional Principal Judge, Family Court, Sonapat, has declined prayer of the petitioner to grant maintenance.

3. The brief facts emerging from record are that the petitioner solemnized marriage with respondent on 11.11.2016 according to Hindu rites and ceremonies. The parties to marriage could not cohabit together and petitioner left company of the respondent and started staying separate from the respondent. The petitioner filed petition under Section 125 of Cr.P.C. seeking maintenance. The petition came up for consideration before Family Court which vide impugned order dated 06.04.2023 has rejected claim of the petitioner on the ground that petitioner is getting salary of

Rs. 55,000/- per month and said amount cannot be called as meager amount. The amount is sufficient for maintaining herself.

4. Learned counsel for the petitioner inter alia contends that respondent is earning a sum of Rs. 1,00,000/- per month whereas petitioner is earning Rs. 55,000/- per month, thus, respondent is bound to part with his salary so that petitioner may maintain equal status as she was enjoying while staying with respondent.

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

6. The relevant extracts of the impugned order read as:

*“It is next argued by learned counsel for the petitioner that though the petitioner is getting salary but still she is entitled to maintenance from the respondent so that she can maintain the same standard of living as enjoyed by the respondent. However, this contention does not appeal to the court. As per affidavit of assets, income and liabilities submitted by the respondent, he is getting salary of Rs.98,000/- per month but at the same time, he has shown liability to pay the car loan of Rs.5,00,000/- and has to incur expenses on account of rental accommodation also, being posted at Gurugram. He has also been shown to incur transportation and other expenses on account of residing in Gurugram. His salary slip and account statement would reflect that his monthly income is more than Rs.1,00,000/- but at the same time, it is also to be considered that he would be incurring expenses on rental accommodation, transportation etc. being posted in a different place than his parental home. The respondent has also placed on record copy of lease*

*agreement which will support his contention that he has to pay Rs.24,000/- per month as rent for the rented accommodation at Gurugram. Naturally on account of his stay at Gurugram due to his job, the respondent would have to incur other expenses of food, conveyance etc. as well as detailed in his affidavit. Thereby out of the total income of the respondent the expenses to be incurred by him every month on account of rent, electricity charges, food, commutation etc. are also to be considered whereas on the other hand, petitioner is admittedly employed at her home town only and is residing with her parents whereby she is not having the liability of any additional expenses on account of rent, conveyance etc. As such, even in case the plea of liability to pay car loan raised by the respondent is ignored, still it is a fact that he has to incur expenses on account of his job at Gurugram. No doubt, the respondent has no other liability as is the case of the petitioner as well and it is also a fact that the income of respondent is more than what is being received by the petitioner. However, when over all expenses of the respondent are considered which are more than that of the petitioner, there would not be a huge difference in the earning of the parties which may necessitate payment of money by the respondent to the petitioner. Simply because the income of respondent is more than the petitioner, the court is not supposed to grant maintenance to the petitioner, unless and until there is a substantial and major difference in the earning and living standard of both the parties. The petitioner in the present petition is having handsome salary of around Rs.55,000/- per month in which she can maintain a good standard of living, particularly when she has no other liability except her own maintenance and the fact that she does not have to*

*incur any expenses on account of rent etc. as compared to the respondent. The salary of Rs.55,000/- cannot be considered as a meager amount and therefore, the plea that the petitioner needs some additional amount in order to maintain better standard of living cannot be considered.”*

7. From the perusal of findings recorded by Family Court while passing impugned order, 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. 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 has social, ethical and statutory responsibility to maintain his family. The trial court has taken care of all these aspects.

8. The petitioner is admittedly earning Rs. 55,000/- per month which is sufficient to maintain herself. It is not necessary to club income of both sides and then distribute. The object of Section 125 Cr.P.C. is to protect wife from destitution and vagrancy. Its object is not to make income of husband and wife equal.

9. Finding no factual or legal infirmity in the impugned order, warranting interference by this court, present petition deserves

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to be dismissed and accordingly dismissed.

**( JAGMOHAN BANSAL )**  
**JUDGE**

**18.05.2023**  
*paramjit*

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