

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

223

CRR(F)-498-2017 (O&M)
Date of decision: 04.12.2023

Ashwani Kumar**...Petitioner****Versus****Bhupinder Devi****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ramesh Chand Sharma, Advocate
for the petitioner.

Mr. P. S. Jammu, Advocate
for the respondent.

MANISHA BATRA, J. (Oral)

1. The instant revision petition has been filed by the petitioner-husband challenging the order dated 05.04.2017, passed by the learned District Judge, Family Court, Moga, in Maintenance Petition No. 406, titled as ***Bhupinder Devi vs. Ashwani Kumar***, filed under Section 127 Cr.P.C., seeking enhancement of the amount of maintenance.

2. Brief facts of the case, as emanating from the material placed on record, are that the respondent-wife, who is legally wedded wife of the present petitioner, had previously filed a petition under Section 125 Cr.P.C. in the Court of Sub Divisional Judicial Magistrate, Moga making prayer for grant of maintenance to her. The said petition was allowed and vide order dated 18.05.1993, maintenance to the tune of Rs. 200/- per month was directed to be paid to the respondent by the petitioner. Thereafter, she filed another petition seeking enhancement in the maintenance allowance before the Chief Judicial Magistrate, Moga, which was allowed, vide order dated 07.02.2002, thereby enhancing the maintenance allowance to Rs. 450/- per month. The respondent-

Neutral Citation No. 2023:PHHC:154755

wife then filed a petition under Section 127 Cr.P.C. on 15.12.2015 seeking enhancement of the maintenance allowance of Rs. 450/- on the ground that the present petitioner, who was a Govt. employee, was getting a salary of Rs. 19,761/- per month. He had no liability. The respondent and her son, who was a major, were suffering from several ailments. Her son was bedridden. She had to incur huge expenses on his treatment. The petitioner had no responsibility. The prices of essential commodities had arisen since the year 2002, when her maintenance allowance was enhanced to Rs. 450/- from Rs. 200/- per month. Therefore, she prayed that the same be enhanced. The Court of the District Judge (Family Court), Moga, after giving opportunity to both the parties and after considering the contentions raised by them, allowed the petition filed by the respondent, vide impugned order dated 05.04.2017 and enhanced the maintenance allowance to Rs. 3500/- per month. Aggrieved by the impugned order dated 05.04.2017, the instant petition has been filed by the petitioner-husband.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law as the amount of maintenance, which was enhanced from Rs. 450/- to Rs. 3500/- was excessive and exorbitant and not consistent with the income of the petitioner, who was now a retired person and had several liabilities to take care of. Hence, he has argued that the present petition deserves to be allowed.

4. *Vakalatnama* on behalf of the respondent has been filed today. It is argued that the present petition is liable to be dismissed as the amount of maintenance was enhanced by the Family Court to Rs.3500/- keeping in view the day to day needs of the respondent and also by taking into consideration the current income of the petitioner. The petitioner was a Govt. employee and was earning a handsome salary at that time and even after retirement, he was supposed to be having means sufficient for maintaining his wife as well.

Neutral Citation No. 2023:PHHC:154755

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. On giving due deliberation to the contentions as raised by both the parties, I am of the considered opinion that the present petition does not deserve to be allowed. The impugned order was passed by the Chief Judicial Magistrate, Moga keeping in view the income and financial status of the petitioner as on that date. No doubt, the petitioner has retired from service as on the date when the impugned order was passed, however, he himself had placed on record a copy of order passed by the office of the Accountant General showing that his monthly pension was commuted @ Rs. 7540/- at that time, besides grant of several other retiral benefits. The petitioner had not brought on record any material to show that respondent-wife was capable of maintaining herself at that time. She had been getting maintenance from the petitioner @ Rs. 450/- per month since the year 2002 onwards till the year 2017. It is obvious that the price index had increased manifold since then and even the day to day requirements of food, lodging, medicines, clothing etc. could not be met with by the respondent with the monthly maintenance amount of Rs. 450/-, which was being received by her from the petitioner since 2002. Being husband of the respondent, it was his moral and legal obligation to maintain her. The Family Court, Moga, after taking all these factors into consideration, had rightly directed the petitioner to pay maintenance to the tune of Rs. 3500/- per month to respondent.

7. In view of the above discussion, I see no reason as to why the impugned order should be interfered with. As such, finding no merit in the petition, the same is dismissed.

04.12.2023

Waseem Ansari(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes