

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

**CRR(F)-376-2022 (O&M)
Date of decision: 29.08.2023**

Hiren

.....Petitioner

Vs.

Vikram Jindal

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Anil Bansal, Advocate
for the petitioner.

NidhiGupta,J.

1. Prayer in the present petition is for enhancement of maintenance granted vide the impugned judgment dated 18.03.2020 passed by the learned Additional Principal Judge, Family Court, Ludhiana in CIS No.MNT-125/1084/2019 under Section 125 Cr.P.C. whereby, the minor petitioner herein represented through his next friend and natural guardian/mother Smt. Saloni, has been awarded Rs.10,000/- per month as final maintenance.

2. Learned counsel for the petitioner inter alia submits that the respondent herein is the father of the petitioner and is earning handsomely. It is stated that the respondent is an able-bodied person and is a man of means. He is carrying on business of Jindal Electronics from which he is having minimum income of about Rs.2,20,000/- per month. Besides that, he also

owns and possesses various properties. As such, the maintenance awarded to the petitioner is on the lower side especially in view of the fact that the total tuition fee for the education of the petitioner is Rs.52,100/- and monthly fee payable by the petitioner to the school is Rs.3,000/-. It is submitted that before the Id. Family Court the petitioner had also placed on record certified copies of Income Tax Returns, Bank statements, VAT returns of Jindal Electronics, Mandi Mullanpur, in support of his above contentions.

3. I have heard learned counsel for the petitioner.

4. Perusal of the record of the case shows that admittedly the mother of the petitioner has already received Rs.50 lacs from the respondent as full and final settlement in proceedings under Section 13-B of the Hindu Marriage Act. Learned counsel for the petitioner has further admitted that the petitioner has no other siblings. It has also come on record and has been admitted by the petitioner that after dissolution of marriage under Section 13-B, the respondent has solemnized his second marriage and out of the said wedlock, one daughter has been born. Clearly therefore, the respondent has the responsibility of maintaining and bearing all the expenses of his new family. Moreover, admittedly the mother of the petitioner is a graduate and was earlier working as a Fashion Designer with M/s Tourqueous, Kipps Market, Sarabha Nagar, Ludhiana and drawing a salary of Rs.20,000/- per month. However, it is stated that presently she is not employed anywhere.

5. I have heard Id. Counsel for the petitioner.

6. In similar circumstances, the Hon'ble Karnataka High Court in *Shilpashree J. M. Vs. Gurumanjunatha A.S., 2023 SCC OnLine Kar 36*,

has held as under:-

“8. The records also disclosed that before marriage petitioner No.1 was working as is evident from her cross examination. Her cross examination also reveals that she was residing along with her mother. It is also evident from her admission that, even after her desertion she continued to stay in the rented house along with her mother itself and the allegation does establish that she was not interested to stay with respondent Nos 2 to 4. It is an admitted fact that at the instance of the present petitioner No. 1, a separate house was taken on rent and now the petitioners i.e. , wife and child are residing therein along with her mother, but she was reluctant to stay with her mother-in-law and unmarried sister-in-law. It is an admitted fact that respondent No. 1- husband is running provision stores. Further, he is having responsibility of care of his mother and unmarried sister. Admittedly, the petitioner No. 1 was working prior to her marriage and it is asserted that after marriage she resigned the said job. But, there is no explanation as to why she is incapable of working now. She is not supposed to sit idle and seek entire maintenance from her husband and she is also legally bound to make some efforts to meet her livelihood and she can seek only supportive maintenance from her husband”. (Emphasis supplied).

I am in complete concurrence with the above said views expressed by the Karnataka High Court. Even if it is correct that the mother of the petitioner is currently doing nothing, she is legally bound to make some efforts to meet her livelihood and that of her minor son/the petitioner herein.

7. In this regard reference may be made to judgment of the Hon’ble High Court of Uttarakhand in ‘**Criminal Revision No.133 of 2013**’ titled as ‘**Anshu Gupta Vs. Adwait Anand**’ decided on 09.08.2023, wherein it has been held that according to the language of Section 125

Cr.P.C., ‘any person’ would include both male and female, and in reference

to a minor child whether legitimate or illegitimate, mother or father having sufficient means if neglects and refuses to maintain such minor child would be held liable to pay the maintenance of such child.

8. Meaning thereby that it is not solely the responsibility of the father to maintain a minor child if the mother is having sufficient means. In the present case, admittedly the mother of the petitioner has sufficient funds to maintain not just herself, but also the petitioner. At the same time, needless to say, this does not absolve the father of his responsibility to maintain the minor child either. Therefore, in the facts and circumstances of the present case, it is my view that the learned Family Court has awarded a just and fair compensation. Accordingly, in view of the admitted factual and legal position as noticed above, I find no ground is made out to interfere in the impugned order.

9. Dismissed.

29.08.2023
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(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes/No