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

CRR(F)-1763-2023

Date of decision: 13th December, 2023

Dr. Saket Davera

...Petitioner(s)

Versus

Aashman

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohit Garg, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed by the petitioner challenging order dated 26.10.2023 passed by the Learned Principal Judge, Family Court, Ludhiana in maintenance petition bearing MNT No. 17 of 2017 titled as Aashman Davera v. Dr. Saket Davera filed under Section 125 of Cr.P.C. by the minor son of the present petitioner whereby the maintenance to the tune of ₹ 30,000/ per month was directed to be paid by him.

2. The brief facts of the case are that the respondent who is minor son of the present petitioner has filed the aforementioned petition through his mother and natural guardian Smt. Manali Shukla against the present petitioner on the averments that he was married with the mother of the respondent on 28.11.2004. The respondent was born on 31.08.2006. The marriage between the petitioner and the mother of the respondent was dissolved by a decree of divorce dated 19.12.2017. The respondent was living under the care and custody of his mother who was working. While submitting that he was studying in 7th Class, was unable to maintain himself and a sum of ₹ 52,000/- was incurred on his tuition fee etc along with other

charges, he prayed for directing the petitioner to pay a sum of ₹ 1,00,000/- per month as his maintenance by further pleading that the petitioner who was employed as Wing Commander in Indian Air Force drawing a handsome salary to the tune of ₹ 2,15,000/- and was already having sufficient movable and immovable property.

3. The present petitioner had resisted the claim of the respondent by filing reply. The record shows that the parties had been given opportunity to lead evidence in support of their respective claims and after considering the contentions raised by both the parties and on appraising the evidence produced on record, the learned Principal Judge, vide order dated 26.10.2023, had given a direction to the petitioner to pay monthly maintenance allowance to the tune of ₹ 30,000/- per month to the respondent.

4. It is submitted by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as an excessive and exorbitant amount of ₹ 30,000/- was directed to be paid by him to the respondent by Learned Family Court, while ignoring the fact that the mother of the respondent was also Wing Commander and was earning the same income as was earned by the petitioner and it was her joint responsibility to maintain the respondent who was their minor Child. He has argued that the petitioner has since remarried. He is making payment of an amount of ₹ 25,000/- to his second estranged wife. He is also taking care of his old aged father. The mother of the respondent is even entitled to reimbursement of his education fee being a Commissioned Officer. Inflated rates of school fees and tuition fees have been cited by the respondent. The petitioner is paying

EMI of his house. He is also incurring expenses of rented accommodation as he is staying in civil area being on study leave. The mother of the respondent intentionally concealed her income, though she is also under an obligation to contribute jointly with the petitioner. With these broad submissions, it is urged that the impugned order is liable to be modified the amount of the maintenance so awarded is liable to be reduced to half and the mother of the respondent is also liable to contribute in his maintenance.

5. I have heard learned counsel for the petitioner at considerable length and have gone through the order passed by the learned Principal Judge, Family Court. The respondent is admittedly minor male child of the petitioner. The parents of the respondent have separated by a decree of divorce and it is not in dispute that the respondent is under the care and custody of his mother. It is well established position of law that the liability and responsibility of a father to maintain the child continues till he attains the age of majority, if he is a male child and he has also a right to be maintained as per the status of his father. It is also relevant to mention here that as per the guidelines issued by the *Hon'ble Supreme Court* in *Rajneesh vs. Neha 2021 (2) SCC 324*, the mother of a minor child is also liable to share expenses of such child proportionally with the father, if she is suitably employed and is living separately from her husband. Such expenses include expenses of food, clothing, residence, medical expenses, education, coaching classes or expenses incurred for receiving other vocational training courses.

6. It has also come on record that wife of the petitioner is also a Commissioned Officer posted as Wing Commander and therefore, her

income can be presumed to be at par with that of the present petitioner. It has come on record that the monthly income of the petitioner is ₹ 2,54,313/-. Though it is claimed by learned counsel for the petitioner that there are several deductions made in his salary and he receives an amount of rupees one lac approximately, however, even if this plea is considered, still in the opinion of this Court, no case for scaling down is made out in view of the fact that the respondent is now a seventeen years old child. He must be studying in some higher class in the school. He is entitled to maintain the same standard of living which is at par with that of the petitioner. The petitioner cannot shirk from his responsibility on the ground that some deductions are made from his salary. He has not placed any material on record to show that he is giving an amount of ₹ 25,000/- as maintenance to his second wife. The respondent is living with his mother who is also taking care of his day to day needs including food, clothing, medicines etc.. Keeping in view the existing price index of even the basic necessities, the amount of ₹ 30,000/- per month as has been directed to be paid by the petitioner to the respondent, cannot be stated to be excessive, especially keeping in view the income and status of the petitioner. Rather the same is moderate. Accordingly, no ground has been made out to interfere with the order as passed by the learned Family Court.

7. Hence, finding no merits, the petition is dismissed.

[MANISHA BATRA]
JUDGE

13th December, 2023

Parveen Sharma

1. Whether speaking/ reasoned
2. Whether reportable

: Yes / No
: Yes / No