

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-468-2024(O&M)

Date of order: 03.04.2024

Mannatdeep Kaur

.....Petitioner(s)

Vs.

Sandeep Singh

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. G.S. Sirphikhi, Advocate
for the petitioner.

Nidhi Gupta, J.

CRM-14146-2024

This is an application under Section 482 Cr.P.C. for exemption from filing the certified copy of Annexure P/1 to P/3, P/6 and P/7 and placing on record the documents, Annexures P/1 to P/7.

After going through the contents of the application, which is supported by affidavit of Kamaljit Kaur Sidhu, the same is allowed subject to all just exceptions.

MAIN CASE

Prayer in the present petition is for modification of order dated 13.12.2023 passed by learned Additional Principal Judge, Family Court, Gurdaspur, Camp Court Batala, whereby respondent-father has been directed to pay interim maintenance of Rs.8,000/- per month to the petitioner-minor child along with one time litigation expenses of Rs.7,000/-.

2. Learned counsel for the petitioner/minor daughter inter alia submits that mother of the petitioner was married to the respondent on 28.10.2012. Petitioner was born out of the said wedlock on 14.02.2014. Admittedly, the parties have been living separately since 2022. Learned counsel submits that interim maintenance of Rs.8,000/- per month granted vide the impugned order is on the lower side as, as per his own admission, the respondent is earning Rs.75,000/- per month.

3. It is submitted that the impugned order was passed primarily on two grounds that: a) there was no proof of monthly income of the respondent that he is earning about Rs.1 lakh per month; b) as also on the ground that *“there is also no proof of movable and immovable property of the respondent”*. It is submitted that the said reasoning of the learned Family Court is on the face of it incorrect as in compliance of direction of the Hon’ble Supreme Court in case titled as **“Rajnish Vs. Neha” Criminal Appeal No.730 of 2020, Law Finder Doc ID # 1760057**, the respondent had filed his affidavit dated 10.03.2023 (Annexure P4) before the learned Family Court, wherein he had disclosed his income to be Rs.75,000/- per month; and his share in ancestral property to be about 3-and-a-half acres of land. It is prayed that accordingly, interim maintenance granted to the petitioner deserves to be enhanced.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel for the petitioner and perused the case file in detail.

6. Perusal of record of the case shows that the petitioner is about 10 years of age. She is currently in the care and custody of her mother. Admittedly, the mother of the petitioner is also a Government Teacher and earning handsomely. As per the affidavit of assets dated 28.04.2023 (Annexure P5), filed by mother of the petitioner, she is working as Maths Mistress and is drawing a salary of Rs.60,000/- per month after deduction. Perusal of impugned order shows that this fact has not been considered by the learned Family Court at the time of passing the impugned order and, the mother of the petitioner despite earning, has not been directed to pay any maintenance to the petitioner. The entire financial burden has been placed upon the respondent.

7. In case of **Smt. Anshu Gupta vs. Adwait Anand @ Devansh Criminal Revision no. 133 of 2013 Law Finder Doc ID # 2296380**, in similar circumstances where the mother of the minor child was also working, the High Court of Uttarakhand held the mother of the minor child liable to pay maintenance. The argument on behalf of the mother that under the provisions of Section 125 Cr.PC the duty to maintain the minor children was only upon the father, was rejected.

8. As regards the contention of learned counsel for the petitioner regarding share of the respondent in ancestral property of about 3-and-a-half acres of land, these are factors which can be determined only upon leading of evidence by the parties. Thus, these factors can be taken into consideration only at the time of final disposal of the petition under Section 125 CR.P.C. while determining the final maintenance to be granted to the petitioner. As such, for the purposes of grant of interim

maintenance, upon prima facie appraisal of all facts and evidence, I find the impugned order to be just and fair.

9. In view of the above, I find no ground is made out to interfere in the impugned judgment dated 13.12.2023 passed by learned Additional Principal Judge, Family Court, Gurdaspur, Camp Court Batala. Present petition accordingly stands **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

03.04.2024

Sunena

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(Nidhi Gupta)
Judge