

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRR (F) No.507 of 2024
Date of Decision: 10.04.2024

Sapna

.. Petitioner

Versus

Sham Lal

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhishek Dhull, Advocate,
for the petitioner.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner challenging the order dated 20.01.2024 passed by the Court of learned Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri in petition bearing CRM No.229 of 2019 titled as Sapna v. Sham Lal whereby, an application filed under Section 127 of Cr.P.C. for enhancement of maintenance was partly allowed and an amount of Rs.15,000/- was directed to be paid to her by way of enhanced maintenance.

2. Brief facts relevant for the purpose of disposal of this petition are that the present petitioner was married with the respondent on 09.12.2009. Subsequently, she filed a petition No.MNT/1741/2013 under Section 125 of Cr.P.C. levelling allegations that the respondent had thrown her out of her matrimonial house and had refused and neglected to

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maintain her. Vide order dated 16.08.2016 passed in the said maintenance petition, the concerned Court directed payment of an amount of Rs.10,000/- per month as maintenance by the respondent to the petitioner. Thereafter, the petitioner filed the aforementioned petition under Section 127 of Cr.P.C. seeking enhancement in the abovesaid amount of Rs.10,000/- by pleading that at the time of passing of order dated 16.08.2016, the salary of the respondent was Rs.33,268/- per month and the same had now been increased and he was getting salary of Rs.46,521/- per month since April-May 2019 and by claiming that the amount of Rs.10,000/- was quite meager and was not sufficient for her maintenance, she prayed for enhancing the same.

3. It is revealed from the record that the respondent was given opportunity to file reply. The parties also led evidence and after due consideration of the evidence and contentions raised by both sides, the learned Family Court observed that since the salary of the respondent had increased to Rs.68,320/- per month during pendency of the petition and since the respondent had failed to lead any evidence to show that the petitioner was working at Civil Hospital, Jagadhri on contract basis as claimed by him, therefore, it was to be considered that she could not maintain herself and was entitled to be maintained by the respondent and enhanced her maintenance to Rs.15,000/- per month.

4. Feeling dissatisfied, the petitioner has filed the instant petition. It is submitted by learned counsel for the petitioner that the impugned order is liable to be modified as the amount of Rs.15,000/- cannot be considered to be sufficient on account of increase in the price index and further in view of the fact that the salary of the respondent has also increased manifold in the meanwhile. It is, therefore, argued that the petition deserves to be allowed

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and the petitioner is entitled to further enhancement in the amount of maintenance.

5. I have heard learned counsel for the petitioner and have gone through the record carefully.

6. Admittedly, the relationship of husband and wife exists between the parties. It is also not in dispute that previously, the petitioner was directed to be paid an amount of Rs.10,000/- per month as maintenance by the respondent in a petition filed by her under Section 125 of Cr.P.C. Thereafter, she filed petition under Section 127 of Cr.P.C. for enhancement in the abovesaid amount. Section 127 of Cr.P.C. empowers Court to make any alternation in the amount of maintenance/interim maintenance of the wife, child, father or mother of a person on proof of change in the circumstances of such person who is receiving under Section 125 Cr.P.C. a monthly allowance for his/her maintenance. The Court is also competent to even cancel or vary the order of maintenance as passed under Section 125 of Cr.P.C. In the instant case, while passing the impugned order, the Family Court had enhanced the amount of maintenance of the petitioner from Rs.10,000/- to Rs.15,000/- per month on the ground that the respondent was promoted as Assistant Sub Inspector and his salary has increased. It was also observed that the respondent was receiving salary to the tune of Rs.68,320/- per month. The learned Family Court observed that the respondent had failed to prove that the petitioner was working in Civil Hospital though he had claimed so. Undoubtedly, increase in the rate of inflation is a good ground to enhance the maintenance under Section 127 of Cr.P.C. as observed in **Bakulbhai and another, v. Gangaram and another**, 1988 SCC (1) 537. The increase of a sum of Rs.5000/- in the maintenance amount

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granted to the petitioner cannot be stated to be insufficient. The amount so enhanced cannot be stated to be extravagant but the same is also not meager. In my opinion, while granting the same, the learned Family Court has drawn a careful and just balance between all the relevant factors while determining the financial status of the parties.

7. On taking into consideration all relevant factors, in my opinion, enhancement in the petition as made by learned Family Court is appropriate. Accordingly, I see no reason to allow this petition and hence, the same is dismissed.

10.04.2024
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(MANISHA BATRA)
JUDGE

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