

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

234

CRM-M-50406-2018 (O&M)

Date of Decision: 06.11.2024

Harjit Kaur and another

.... Petitioners

Versus

Jugraj Singh

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ashish Grover, Advocate for the petitioners.

Mr. Amandeep Saini, Advocate for the respondent.

NIDHI GUPTA, J. (ORAL)

Challenge in the present petition under Section 482 Cr.P.C. is for quashing of order dated 09.05.2018 passed by learned Additional Sessions Judge, Bathinda (Annexure P-7) whereby revision petition filed by the husband-respondent herein against the order dated 23.03.2016 passed by learned Additional Chief Judicial Magistrate, Bathinda (Annexure P-5) has been dismissed with modification.

The admitted facts of the case are that the petitioners herein had filed a petition under Section 125 Cr.P.C. claiming maintenance from the respondent-husband, which was allowed by the learned Additional Chief Judicial Magistrate, Bathinda vide order dated 09.02.2011 (Annexure P-1), thereby granting final maintenance of Rs.1,200/- p.m. (Rs.600/- p.m. each to both the petitioners). *Prima facie*, the respondent was working as a Senior Clerk in the Canal Department and that time, he was drawing a salary of Rs. 12,819/- p.m. Aggrieved against the same



order, the petitioners had filed an application under Section 127 Cr.P.C. for enhancement of the said maintenance allowance. The said application was allowed vide order dated 23.03.2016 (Annexure P-5) by the learned Additional Chief Judicial Magistrate, Bathinda keeping in view the salary certificate for the month of January, 2015 (Ex.AW2/A) reflecting salary of the respondent-husband as Rs.52,908/-; and the maintenance of the petitioners was enhanced to Rs.10,000/- p.m. (Rs.5,000/- each to both the petitioners). The said order dated 23.03.2016 (Annexure P-5) was challenged by the respondent-husband by way of a Revision Petition filed before the learned Additional Sessions Judge, Bathinda, which was allowed vide impugned order dated 09.05.2018 (Annexure P-7), thereby reducing the maintenance amount from Rs.10,000/-p.m. to Rs.5,000/-p.m. It is observed that at the time of passing of order dated 09.05.2018 (Annexure P-7), the husband was drawing a salary of Rs.56,526/- as is evident from his salary slip for the month of August, 2017 (Annexure P-6). However, the maintenance was reduced on the ground that it had been pleaded by the respondent before the learned Sessions Court that the respondent is due to retire on 31.05.2018. It was, therefore, held by the learned Sessions Court that the pension of the respondent would be half and, therefore, the maintenance granted to the petitioners also ought to be half.

The first contention of learned counsel for the petitioners is that as per the information received under RTI (Annexure P-8), the petitioner has not retired till date. This fact is not denied by learned counsel for the respondent.



The second contention raised on behalf of the petitioners is that even if the pension receivable by the respondent would be half of his last drawn salary, which was Rs.56,526/-, then the respondent would also receive pensionary benefits in lacs. It is also submitted that the respondent is in arrears of maintenance for over Rs.5 lacs. It is also pointed out that the respondent has purchased 6 kanals of land in favour of his son born from his previous marriage as is evident from the statement of the respondent-husband while appearing as RW-1 (Annexure P-4).

In view of the undisputed facts as noticed above, the present petition is **allowed** and it is directed that the respondent-husband shall continue to pay Rs.10,000/- p.m. (Rs.5,000/- p.m. each to both the petitioners) as directed vide order dated 23.03.2016 (Annexure P-5) from the date of filing of application under Section 127 Cr.P.C. The respondent-husband is also directed to clear the entire arrears of maintenance within a period of 2 months from today.

Pending application, if any, stands disposed of.

06.11.2024

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No