

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

CRR-3325-2018 (O&M)
Date of decision: 12.08.2024

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abdul Shehbaz Thind, Advocate
for the petitioner.

Mohd. Yousaf, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred against the judgments dated 18.08.2017 and 23.04.2018 passed by the learned Judicial Magistrate 1st Class, Malerkotla and the learned Additional Sessions Judge, Sangrur, respectively, under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986.

2. The marriage between the petitioner and respondent was solemnised on 14.04.1998 by way of Nikah. Out of this wedlock, no child was born. However, matrimonial dispute ensued between the couple and the respondent filed a petition under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 seeking maintenance. The petitioner filed a reply and contested the claim made by the respondent. The learned Judicial Magistrate 1st Class, Malerkotla vide order dated 18.08.2017 granted Rs.25,000/- as *Mehar*, Rs.1,50,000/- as maintenance in favour of the

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respondent. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. The object and purpose behind granting maintenance is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of failure of marriage. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon to punish the other spouse. The Courts are required to conduct the maintenance proceedings while being alive to the legislative intent behind the provision in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. These provisions were enacted as a measure to further social justice and protect dependent women & children which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

4. Another objective the legislature has sought to achieve by this provision is to provide maintenance *pendente lite* to the applicant spouse during proceedings emerging out of matrimonial disputes so that the she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and not suffer at the instance of the affluent spouse.

5. There is a general tendency on the part of the wife to amplify her needs and the husband to conceal his actual income, making it difficult to determine the earning capacity of the rival claimants with exactitude. The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at quantum of maintenance which is just and fair in terms of principle of equistatus. The quantum of maintenance must be justifiable and realistic to provide succour to the dependent spouse and

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also to avoid occurrence of the two extremes of the maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury. The adequacy of the maintenance allowance has to be determined by the yardstick of the dependent spouse being able to lead a life of reasonable comfort.

6. Having heard and after perusing the records of the case, it transpires that the petitioner in his cross-examination has admitted that he owns 4-5 *bighas* of land and also earning Rs.5,000/- per month. Moreover, it is a trite law that a husband is legally and morally bound to maintain his wife and therefore, the learned Family Court has rightly considered the material placed before it for determining the quantum of maintenance. A careful and just balance has been drawn, keeping in view the spiralling inflation rates and high cost of living corresponding to the reasonable needs of the respondent. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Accordingly, the present petition is dismissed being bereft of any merit.

(HARPREET SINGH BRAR)
JUDGE

12.08.2024*Neha*

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