

CRR(F)-128-2024 (O&M) & CRR(F)-38-2024 (O&M)

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2024:PHHC:056436

109+256

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR(F)-128-2024 (O&M)
Date of Decision: 25.04.2024

RAJESH KUMAR

.....PETITIONER

Vs.

POOJA YADAV

.....RESPONDENT

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CRR(F)-38-2024 (O&M)

POOJA YADAV

....PETITIONER

VS.

RAJESH KUMAR

.....RESPONDENT

CORAM:

HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:

Mr. Marinal Sharma, Advocate,
for the petitioner [in CRR(F)-128-2024] and
for the respondent [in CRR(F)-38-2024]

Mr. Prashant Singh Chauhan & Mr. Aman Yadav, Advocates,
for the petitioner [in CRR(F)-38-2024] and
for the respondent [in CRR(F)-128-2024].

HARPREET KAUR JEEWAN J. (ORAL)

CRM-17749-2024 IN CRR(F)-128-2024

1.

In compliance of the order dated 29.01.2024, this application,

has been filed seeking permission to place on record the affidavit of the

applicant-petitioner, Annexure P-4 with the accompanying petition.

2. The application is allowed. The aforesaid affidavit is taken on record as Annexure P-4 with the accompanying petition, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-1200-2024 IN CRR(F)-38-2024

1. By this application, the applicant-petitioner seeks condonation of delay of 25 days in filing the present Criminal Revision Petition.

2. Notice in the application was already issued, vide order dated 11.03.2024 passed by this Bench.

3. In view of the averments made in the application, which is duly supported by an affidavit of the applicant-petitioner, the application is allowed and the delay of 25 days in filing the present petition is hereby condoned.

CRR(F)-128-2024 (O&M) & CRR(F)-38-2024 (O&M)

1. Since a common question of law and facts are involved, these cases are taken up together and being disposed of by a common judgment. However, for the convenience of the Court, the facts are being taken up from CRR(F)-128-2024.

2. Both, the petitioner-husband (Rajesh Kumar) and the respondent-wife (Pooja Yadav) have challenged the judgment of the learned Family Court by way of filing these petitions. As per the impugned judgment dated 15.09.2023, the Principal Judge, Family Court, Camp Court, Mahendergarh, has awarded the maintenance @30% of the net salary of the petitioner-husband (Rajesh Kumar) to the respondent-wife (Pooja Yadav), w.e.f. the date of the filing of the petition.

3. Heard.

4. In Paragraph No. 5 of the impugned judgment, the Family Court had discussed about the salary of the husband (Rajesh Kumar) for the month of March as ₹55,000/- per month. However, the 'year' has not been mentioned in the said paragraph. Further, again a reference is there of the salary of the husband (Rajesh Kumar) for the month of July 2022, where it has been mentioned that gross salary of the husband is ₹78,485/- and his net pay is to the tune of ₹73,743/- per month and reference is to Mark-27 which is not an exhibited document.

5. The petitioner-husband has relied upon the salary certificate Annexure P-1 for the month of January 2023 reflecting the gross salary as ₹56,753/-, net payable of ₹51740/-. However, this fact is not clear as to whether the salary certificate was part of the paper-book before the Family Court as an exhibited document.

6. The Family Court has awarded the maintenance @ 30% of the net salary of the petitioner-husband (Rajesh Kumar). I am of the considered opinion that by not quantifying the amount of maintenance, the parties would remain uncertain about their rights & liabilities under the impugned order. The order is uncertain. The Executing Court will have to again seek documents for each month to calculate the awarded amount by calculating its 30% and even it would be difficult for both the parties to calculate the arrears, as well as for the Executing Court to execute the order.

7. In order to avoid the ambiguity in the order, the matter is remanded back to the Family Court, Camp Court, Mahendergarh, for a limited point to reassess the evidence led by both the parties and pass fresh

orders. The Family Court is directed to decide the matter within a period of 03 months on receiving the copy of this order. The evidence led by parties earlier shall be considered to pass fresh order.

8. Keeping in view the above, both these petitions are disposed of.
9. Pending miscellaneous application (s), if any, shall also stand disposed of.

April 25, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking Yes
Whether reportable No