

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRR(F) No.1841 of 2023
Date of decision: 04.01.2024

BHOLA SINGH

.... Petitioner

Versus

AMARJIT KAUR

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Ramandeep Singh Brar, Advocate for the petitioner.

MANISHA BATRA, J. (oral)

1. The petitioner is challenging the order dated 21.10.2023 passed by learned Additional Principal Judge, Family Court, Bathinda in application bearing No. CRM/178/2019 titled as *Amarjit Kaur vs. Bhola Singh* filed under Section 127 of Cr.P.C. by the respondent herein whereby, the prayer of the respondent for enhancement in the amount of maintenance was allowed.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the respondent-Amarjit Kaur who is wife of the present petitioner, along with her minor daughter had previously filed a petition under Section 125 of Cr.P.C. before the Court of learned Judicial Magistrate, Bathinda seeking maintenance from him. The said application had been allowed vide order dated 29.10.1983 and the petitioner was directed to pay maintenance to the tune of Rs.150/- per month to respondent-wife and Rs.75/- per month to his daughter. Subsequently, the respondent-wife had filed an application for enhancement in the amount of maintenance as directed to be paid to them. The said application had been allowed vide order dated 16.12.2008 passed by the Court of then learned Chief Judicial Magistrate,

Bathinda and maintenance to the tune of Rs.3,000/- per month was directed to be paid to the present respondent. Then, application bearing No.CRM/178/2019 had been filed by the respondent on 19.09.2018 making prayer for enhancing the amount of maintenance on the ground that prices of commodities had increased. It is revealed from the record that after giving due opportunities to both the parties to complete the pleadings, lead evidence and render arguments, learned Family Court, Bathinda vide impugned order dated 21.10.2023, had enhanced the amount of maintenance to be paid to the respondent from Rs.3,000/- to Rs.6,000/- per month from the date of filing of the application.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law and is liable to be set aside as while passing the same, learned Family Court had ignored that he had retired from his services in the year 2016. He himself is now aged about 66 years and is suffering from several ailments including heart problem and is spending huge amount of money on his treatment. That apart, he has spent sufficient amount of money on the marriage of his daughter. The respondent had contracted marriage with one Gurjant Singh after leaving him and therefore, she was not entitled to seek any maintenance from him. She is a healthy woman aged about 60 years and is very much capable of maintaining herself. They are living separately from each other for the last 41 years. With these broad submissions, he has argued that the impugned order be set aside and the application filed by the respondent for enhancement in the amount of maintenance be dismissed.

4. I have heard learned counsel for the petitioner and have gone through the material placed on record.

5. Admittedly and evidently, the petitioner is a retired Police personnel aged about 66 years. The respondent is his legally wedded wife as no formal decree of divorce has ever been passed between the parties, though, they have been residing separately since long. It is revealed from a perusal of record that the plea as taken by the petitioner that the respondent-wife had performed second marriage with one Gurjant Singh had not been believed by learned trial Court and the said findings had never been challenged by the present petitioner. It is also reflected from the record that the amount of maintenance at the rate of Rs.3,000/- was directed to be paid by the petitioner to the respondent vide order dated 16.12.2008 i.e more than 15 years back. Under Section 127 of Cr.P.C. the Court of Magistrate is competent to make any alteration in the allowance for the maintenance on proof of change in the circumstances of any person receiving a monthly allowance for maintenance under Section 125 of Cr.P.C. The respondent herein, is a 60 year old lady who is at her own. There is nothing on record to show that she is capable of earning herself or has any independent source of income. It is also not the case that the petitioner has any other person dependent upon him. The well settled proposition of law is that a wife is entitled to a life of same standard which she lived when she was with her husband. It is the sacrosanct duty of the husband to provide adequate financial support to his wife. The petitioner cannot take **subterfuges** to deprive her of the benefit of living with dignity. The plea that he himself is suffering from ailments and is not capable to give enhanced amount of maintenance does not absolve him of his moral duty to maintain his wife. Learned Family Court while enhancing the amount of maintenance from Rs.3,000/- to Rs.6,000/- has drawn a careful and just balance keeping in view the financial status of the petitioner. The enhancement so made cannot be

stated to be excessive or exorbitant rather in my considered opinion, the same is quite moderate keeping in view the rise in prices of the essential commodities. In this backdrop, in my view, on all the counts, the contentions raised by the petitioner cannot be accepted. The revision therefore, fails and is hereby dismissed.

04.01.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

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