

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

**Criminal Misc. No. M-6480 of 2008
Date of Decision: 26.02.2010**

**Smt. Raj Bala wife of Sh. Dharamvir and d/o Sh. Sheo
Ram, at present r/o village Talakaur, Tehsil Jagadhari,
District Yamuna Nagar.**

... Petitioner

Versus

**Dharamvir son of Sh. Mehar Singh r/o village Taprion,
PO Neori and Tehsil Indri, District Karnal.**

...Respondent

CORAM: HON'BLE MR. JUSTICE SHAM SUNDER

**Present: Mr. Sanjay Verma, Advocate,
for the petitioner.**

**Mr. Pritam Saini, Advocate,
for the respondent.**

SHAM SUNDER, J.

This petition under Section 482 Cr.P.C., for quashing the order dated 28.03.06 (Annexure P2), rendered by the Court of Judicial Magistrate 1st Class, Jagadhri, vide which, it awarded a sum of Rs. 1,000/- per month, as maintenance, to the petitioner, and, the order dated 21.01.08 (Annexure P1), rendered by the Court of Additional Sessions Judge, Yamuna Nagar, vide which, it dismissed the revision-petition.

2. Raj Bala, petitioner, filed a petition, under Section 125 Cr.P.C., for grant of maintenance, against her husband Dharamvir,

respondent, on the allegations, that she being his wife, was neglected and refused to be maintained by him. It was also stated by her that she was having no means of livelihood.

3. The Courts below, after going through the evidence, on record, came to the conclusion, that the petitioners, was entitled to maintenance. Accordingly, maintenance @ Rs. 1,000/- per month, was granted, in favour of the petitioner.

4. Feeling dissatisfied, the instant petition, has been filed by the petitioner, for enhancement of the amount of maintenance allowance.

5. I have heard the Counsel for the parties, and, have gone through the documents, on record, carefully.

6. The Counsel for the petitioner, submitted that, the Courts below, were wrong, in granting meagre amount of maintenance allowance, in favour of the petitioner. He further submitted that the respondent, was having sufficient means. He further submitted that besides being landlord, the respondent, was also having agricultural land, wherefrom, he could earn sufficient amount. He further submitted that, in these circumstances, on account of sky high prices, it is difficult to maintain even a single soul with a paltry sum of Rs. 1,000/-. He further submitted that the same be enhanced.

7. On the other hand, the Counsel for the respondent, submitted that the Courts below, after taking into consideration, the income of the respondent and his liabilities, were right, in coming to the conclusion, that the amount of maintenance, in the sum of

Rs. 1,000/-, if granted, would amount the ends of justice. He further submitted that, two daughters, were born, from the wedlock. He further submitted that both these daughters are residing with the respondent. He further submitted that both these daughters, were School going, at the relevant time, and now they are College going, and will have to pursue the higher studies. He further submitted that after sometime, both these daughters of the respondent, will become of marriageable age, and their marriages, are also to be performed, by the respondent. He further submitted that, under these circumstances, it could not be said, that the maintenance allowance of Rs. 1,000/-, granted, to the petitioner, was meager.

8. After giving my thoughtful consideration, to the rival contentions, raised by the Counsel for the parties, in my considered opinion, the petition, is liable to be dismissed, for the reasons, to be recorded, hereinafter. At the time of deciding the application, under Section 125 Cr.P.C., the Court, is required to take into consideration, the income of the parties, their liabilities and various other factors. In the instant case, out of the wedlock, two daughters, were born, who are now residing with the respondent. They were School going, at the relevant time. Now they are College going, and will have to pursue the higher studies. Now a days, the expenditure, on education, is very high. Not only this, they have to become of marriageable age after sometime, and their marriages are to be performed, by the respondent. On the other hand, the petitioner, was having no liability. Under these circumstances, keeping in view the status of the parties,

the income of the respondent, and his liabilities, the Courts below, were right, in awarding maintenance allowance, to the tune of Rs. 1,000/- per month, to the petitioner. The maintenance allowance, awarded to the petitioner, therefore, could not be said to be, in any way meager. In the facts and circumstances of the case, no ground, whatsoever, for enhancement thereof, is made out. The discretion, exercised by the Courts below, cannot be said to be, in any way illegal or perverse. The orders impugned, are, thus, liable to be upheld.

9. For the reasons recorded above, Criminal Misc. No. M-6480 of 2008, being devoid of merit, must fail, and the same stands dismissed. Any observation, made in this order, shall not be taken, as an expression of mind, on merits of the case.

10. Registry is directed, to comply with the order, by sending the copy thereof, to the Court concerned.

20.02.2010

Amodh

**(SHAM SUNDER)
JUDGE**