

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-20848-2015
Date of decision:1.7.2015**

Sukhwinder Singh

...Petitioner

Versus

Manjit Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Deepak Verma, Advocate for the petitioner.**RAMESHWAR SINGH MALIK, J. (Oral)**

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), impugns only the revisional order dated 17.3.2015 passed by the learned Sessions Judge, Hoshiarpur, whereby maintenance amount was increased from Rs.1000/- per month for each of the applicants to an amount of Rs.2500/- per month for each of the applicants-respondents.

Facts of the case are hardly in dispute. Petitioner is the husband of respondent No.1 and father of respondent No.2. When the respondents were not being maintained by the petitioner, they were forced to approach the Court by moving an application under Section 125 Cr.P.C. The learned trial Court vide order dated 19.8.2014 granted the interim maintenance @ Rs.1000/- per month for each of the respondents. Feeling genuinely aggrieved, the respondents filed revision petition before the learned Sessions Judge, which came to be allowed vide impugned judgment dated 17.3.2015 (Annexure P-6). After considering the peculiar

facts and circumstances of the case, the learned Sessions Judge came to the conclusion that the amount @ Rs.1000/- per month awarded by the learned trial Court was on lower side which deserved to be enhanced to Rs.2500/- per month to each of the applicants-respondents. Hence this revision petition, at the instance of the husband.

Learned counsel for the petitioner submits that the impugned judgment suffers from patent illegality as the same is without any reason. He further submits that not only the impugned order was an ex parte order, but the maintenance has been granted to the applicants-respondents from the date of application moved by them before the learned trial Court and not from the date of revision filed before the learned Sessions Judge. He would next contend that sufficient amount was awarded as interim maintenance by the learned trial Court @ Rs.1000/- to each of the respondents but the learned revisional court fell in serious error of law, while passing the impugned judgment because of which the same is not sustainable. He prays for allowing the present petition by setting aside the impugned order dated 17.3.2015.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the peculiar facts and circumstances of the case noticed hereinabove, the present one is a wholly misconceived petition and the same is liable to be dismissed for the following more than one reasons.

It is a common knowledge that an amount of Rs.1000/- per month even as interim maintenance would be a mockery with the applicants-respondents. It is so said because it would not be possible for any

citizen to sustain himself/herself with an amount of Rs.1,000/- per month, in these days of skyrocketing prices. Keeping this consideration paramount, the learned Sessions Judge committed no error of law, while passing the impugned judgment, whereby the interim maintenance was enhanced only to an amount of Rs.2500/- per month for each of the applicants-respondent. Having said that, this Court feels no hesitation to conclude that the learned Sessions Judge proceeded on a factually correct and legally justified approach, while passing the impugned judgment, which deserves to be upheld for this reason also. It has not been argued before this Court on behalf of the petitioner that petitioner was unable to pay even this much minimum possible amount for maintenance of his wife and child. Further, amount of Rs.2500/- per month to each of the respondents is not at all on higher side and the same deserves to be upheld.

Coming to the second argument raised by the learned counsel for the petitioner that enhanced amount of interim maintenance has been ordered to be paid by the petitioner to the respondents from the date of their application under Section 125 Cr.P.C. before the learned trial Court, it is suffice to observe that the learned Sessions Judge has again not committed any illegality, while issuing that direction because it is the settled proposition of law that the applicants are entitled for the maintenance from the date of application under Section 125 Cr.P.C. and not from the date of order except in exceptional circumstances. In the present case, the learned counsel for the petitioner could not point out any exceptional circumstance in favour of the petitioner which may entitle him for making the payment from the date of order instead of from the date of application. In this view of the matter, the learned Sessions Judge has rightly followed the law laid

down by this Court in **Prabhpreet Kaur and another v. Atamjeet Singh, 2014 (1) RCR (Crl.) 689.**

So far as the impugned judgment being an ex parte judgment is concerned, the learned counsel for the petitioner could not point out anything from the record whether the service was effected on the petitioner or not. Further, no prejudice, as such, has been shown to have been caused to the petitioner because he is under legal obligation to maintain his wife and child. The interim maintenance amount, which has been awarded to the respondents, is very much reasonable and the same cannot be said to be on higher side under any circumstance. In this situation, it is unhesitatingly held that the learned revisional court did not exceed its jurisdiction, while passing the impugned order and the same deserves to be upheld for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned judgment does not suffer from any patent illegality. The present petition has been found to be without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the instant petition stands dismissed, however, with no order as to costs.

1.7.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE