

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-22336 of 2014

Date of Decision: January 13, 2015

Devi Dayal

...Petitioner

VERSUS

Priya and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Rajiv Joshi, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of judgment dated 28.05.2014 passed by learned Addl. Sessions Judge, Jalandhar and order dated 11.12.2013 passed by learned Judicial Magistrate Ist Class, Jalandhar whereby the maintenance under Section 125 Cr.P.C. has been awarded excessively without adverting to the actual earning of the petitioner who is retired from service.

I have heard learned counsel for the petitioner and have gone through the record.

First of all, I find that both the Courts below have given concurrent findings regarding the maintenance granted to respondent No.1 of ₹2500/- per month and ₹1500/- per month to respondents No.2 to 4 each. Firstly, the order granting interim maintenance has

been passed by learned JMJC/Civil Judge (Junior Division), Jalandhar and then the revision filed by the present petitioner has also been dismissed. Now, the present petition under Section 482 Cr.P.C. has been filed in the guise of second revision. Second revision is not maintainable as per Section 397(3) Cr.P.C. On the face of it, no illegality has been shown in the order and judgment passed by the Courts below. Learned lower Court has considered all the facts before granting the interim maintenance to the respondents. The Court has considered that the petitioner is pensioner from Border Security Force and is bound to maintain the respondents. The only argument before this Court is that the interim maintenance amount is excessive. In no way, this amount can be held as excessive. Now-a-days, with ₹1500/-, a minor child cannot be maintained. There are lot of expenses on food, clothing, education etc. Rather, the petitioner has placed document regarding commuting of the pension. If he has got commuted the pension, then he has taken lumpsum amount in place of commuted pension. Otherwise also, the petitioner has also received other pensionary benefits.

Keeping in view the facts and circumstances of the present case, I do not find any illegality in the impugned order and judgment passed by the Courts below.

Therefore, finding no merit in the present petition, the same is dismissed.

January 13, 2015
Vgulati

(INDERJIT SINGH)
JUDGE