

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-40576 of 2014

Date of decision : August 04, 2015

Tarsem Khan @ Kamaldin

..... Petitioner

Versus

Imtiaz and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. P.S. Sekhon, Advocate
for the petitioner

ANITA CHAUDHRY, J.

The petitioner is seeking quashing of the order dated 20.10.2014 passed by the Additional Sessions Judge, Mansa and the order dated 31.03.2014 passed by CJM Mansa vide which the respondent was allowed maintenance of ₹ 3500/-.

The relevant facts are that petitioner was married to Imtiaz 12 years ago and two children were born out of the wedlock. Both the children were residing with the mother. Divorce was granted on 27.02.2012. The petitioner had pleaded that respondent No. 1 took the minor children from him and he was ready to maintain the wife and children or one of the minor child if they reside with him but respondent No. 1 refused to reside or hand over the custody.

The wife had filed a petition under Section 125 Cr.P.C. seeking maintenance. It was pleaded that husband was a Government employee and had income of ₹ 20,000/- per month. A prayer for interim maintenance was made. The trial Magistrate

allowed the interim maintenance of ₹ 1500/- to the wife and ₹ 1000/- each for both the children from the date of filing of the application.

The husband assailed the order in a revision pleading that the provision of Section 125 Cr.P.C. could not be invoked. The respondent placed reliance upon ***Shabana Bano vs. Imran Khan, 2010(J) RCR(Criminal) 158*** and ***Asif Said vs. S.M. Unnissan Rana and others, 2012(3) RCR(Criminal) 13*** and quoted extenso to the observations of the Supreme Court in ***Shabana Bano's case (supra)*** and upheld the order of the Magistrate and dismissed the revision petition.

Still not satisfied the husband has filed this petition.

There was a request for adjournment on the first two hearings and thereafter it was submitted on behalf of the petitioner that there was a possibility of compromise and the matter was again adjourned.

On 19.03.2015, the petitioner was asked to file copy of the reply submitted by him before the Court below. It was stated that petitioner was ready to maintain his family and as no amount had been deposited the petitioner was directed to pay some amount before the next date of hearing i.e. 08.05.2015.

On 08.05.2015, again some more time was requested to deposit the amount of maintenance and three months time was given.

Today the counsel states that the petitioner had not deposited any amount.

Heard.

The wife had pleaded that the husband was a Government employee and was earning ₹ 20,000/- per month, though she could not furnish any documentary evidence but the trial Court observed that even if he was taken to be as a labourer, his monthly income should not be less than ₹ 10,000/- per month. The husband has been pleading that he was ready to maintain his wife and minor children and this plea was taken in this petition as well though he pleads that they had been divorced. He has failed to deposit any amount though number of adjournments were taken.

The trial Court has allowed interim maintenance. It can not be said that the amount allowed was excessive. The parties are yet to lead their evidence and the matter would be determined finally after parties have lead their evidence. No ground for interference is made out.

The petition is dismissed.

August 04, 2015

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**(ANITA CHAUDHRY)
JUDGE**