

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-5445 of 2015

.....

Date of decision:19.2.2015

Sunil

.....Petitioner

v.

Nisha

.....Respondent

....

Present: Mr. Tapan Kumar Yadav, Advocate for the petitioner.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of impugned order dated 31.10.2013 (Annexure-P.1) passed by learned Judicial Magistrate Ist Class, Rewari, whereby an interim maintenance of ₹5,000/- per month has been levied upon the petitioner and also the impugned order dated 15.12.2014 (Annexure-P.3) passed by the learned Additional Sessions Judge, Rewari, whereby the criminal revision petition filed by the petitioner against the above said order has been dismissed.

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

First of all interim maintenance @ ₹5,000/- per month has been granted to the respondent by the learned Judicial Magistrate Ist Class, vide impugned order dated 31.10.2013. The petitioner has availed the remedy by filing the revision petition before the learned Additional Sessions Judge, Rewari, which has been dismissed.

Now this petition under Section 482 Cr.P.C. has been filed in

the guise of second revision, but the second revision is not maintainable under Section 397(3) Cr.P.C. The petition under Section 482 Cr.P.C cannot be filed in a routine manner and the Court is only to consider the petition where it finds that any miscarriage of justice has taken place or the order is necessary to secure the ends of justice. A perusal of record shows that the present petitioner nowhere before the learned Judicial Magistrate has given his income and has rather stated that he is not earning anything. The Court has not believed his version.

At the time of arguments, learned counsel for the petitioner argued that there is a big family and father of the petitioner has only three kanals of land. If it is that case, then it is difficult even for the petitioner to survive on the income of three Kanals of land, if they have no other income. Even he should have requested to provide legal aid counsel. Rather, the petitioner has engaged a counsel before the learned Judicial Magistrate. He also engaged a counsel before the Sessions Court and he is pursuing the proceedings regarding interim maintenance before this Court by engaging counsel. Hence, his version that he is not earning single rupee cannot be believed.

Therefore, from the above, finding no illegality in the impugned orders passed by the Courts below, the same are upheld. Consequently, finding no merit in the present petition, the same is dismissed.

February 19, 2015.

(Inderjit Singh)
Judge

hsp