

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-8077 of 2015
Date of Decision:-21.10.2015

Hunny ...Petitioner

Versus

Anju ...Respondent

CORAM: HON'BLE MR.JUSTICE SHEKHER DHAWAN

Present:- Mr. D.S.Malwai, Advocate,
for petitioner.

Mr. D.S.Gurna, Advocate,
for respondent.

SHEKHER DHAWAN, J.

Present petition under Section 482 Cr.P.C. for quashing of order dated 20.08.2014 passed by Sub Divisional Judicial Magistrate, Rajpura and order dated 21.01.2015 passed by Additional Sessions Judge, Patiala while deciding the revision petition.

Relevant facts of the case that wife-Anju had filed a petition under Section 125 Cr.P.C. for seeking maintenance allowance from her husband Hunny who is petitioner before this Court. Maintenance allowance was sought @ ₹15,000/- per month and litigation expenses to the extent of ₹10,000/-. However, learned Magistrate after considering the facts passed order for maintenance allowance @ ₹5,000/- per month. The said order was challenged by way of revision petition before Additional Sessions Judge, Patiala and petitioner remained unsuccessful and as such present petition before this Court.

Learned counsel for petitioner submits that learned Magistrate passed the order for maintenance allowance @ ₹5,000/- per month on the presumptions that petitioner is able boded person and the husband cannot absolve his liability to maintain his wife. That way his income can be assessed to be ₹7,000/- to ₹8,000/- per month to the maximum and interim maintenance should not exceed @ ₹2500/- per month. On this point, learned counsel for petitioner placed reliance upon view taken by this Court in case **Dalib Kumar @ Deepa Vs. Sunita and another 2014(2) RCR (Criminal) 434.**

Having considered the submissions made by learned counsel for the petitioner and the facts that most of the facts in the case are not disputed that Anju is legally wedded wife of present petitioner. At present she is living separately. Allegations are that she was being harassed on account of demand of dowry and was thrown out of matrimonial home after giving beatings. Petitioner was allegedly carrying *Karyana* Shop and business of whole sale at Village Kauli though the same fact is denied by the present petitioner. There is no proof of income of respondent-wife.

Considering all these facts and taking note of the fact that petitioner requires at least some maintenance allowance for her survival, it was ordered by Magistrate that maintenance allowance be paid @ ₹5,000/- per month. The same was considered to be most reasonable and justified by learned Additional Sessions Judge, Patiala while deciding the revision petition. On these points, the facts of the case in hand and facts of **Dalib Kumar @ Deepa's** case (supra) are distinguishable. More so, the present order has been challenged in the year 2015 and the Court is to see the prevailing price index in the year 2014-15, when the order is to become

operative. Now a days it is quite difficult to survive with a meager income of ₹5,000/- per month.

As such there are no justified grounds for interference by way of present petition under Section 482 Cr.P.C. for quashing of order dated 20.08.2014 passed by Sub Divisional Judicial Magistrate, Rajpura and order dated 21.01.2015 passed by Additional Sessions Judge, Patiala in revision petition.

In view of the above, present petition being without any merit stands dismissed.

October 21, 2015
msd

(SHEKHER DHAWAN)
JUDGE