

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1795 of 2014 (O&M)
Date of Decision: February 20, 2015

Shiv Kumar Dargan

...Petitioner

VERSUS

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Petitioner-in-person.

Mr.A.S.Klar, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Aakash Singla, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. challenging the judgment dated 06.05.2014 passed by learned Addl. Sessions Judge, Patiala.

It is mainly stated in the grounds of revision that the impugned judgment dated 06.05.2014 passed by learned Addl. Sessions Judge, Patiala, is perverse, against the facts and law and is therefore liable to be set aside.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.2 appeared and contested

the petition.

I have heard petitioner-in-person, learned State counsel as well as learned counsel for respondent No.2 and have gone through the record.

From the record, I find that Sangeeta Dargan present respondent No.2 filed application against Shiv Kumar Dargan present petitioner under Section 23 of the Protection of Women from Domestic Violence Act, 2005. As per order dated 24.10.2013, learned JMIC, Patiala held that both the daughters are entitled to maintenance to be paid by the respondent (present petitioner) and consequently, he was directed to pay ₹6,000/- per month each as interim maintenance to both the children from the date of application. Then appeal was filed before learned Addl. Sessions Judge, Patiala, which was dismissed vide judgment dated 06.05.2014.

At the time of arguments, petitioner argued that as the appeal is not maintainable and revision lies, therefore, he has now filed the revision and the order passed by learned Addl. Sessions Judge, Patiala is without jurisdiction.

At the time of arguments, petitioner has not argued that minor daughters are not entitled to the maintenance or the amount of interim maintenance is excessive one etc. He only argued that since the compromise had already been effected between the parties, therefore, the wife was not having any right to initiate any proceeding against the petitioner and no relief can be granted in the proceedings filed by the wife. He further argued that it is settled law that

compromise or settlement in the matrimonial dispute should be respected by the Courts and efforts should be made to settle these disputes. The petitioner also argued that respondent No.2-wife availed the benefits under the compromise.

On the other hand, learned State counsel as well as learned counsel for respondent No.2 argued that no benefit has been taken under the compromise by respondent No.2. No maintenance has been granted to the children i.e. minor daughters in the compromise. It is further argued that compromise has not been complied with by any of the party to the compromise and only on this ground, the impugned order cannot be set aside.

The perusal of the record shows that copy of the compromise has been placed on the record, which is Annexure P-1. As per the compromise dated 02.12.2011, the age of daughter namely Niharika was shown as 14 years and Koena as 7 years, which means that both of them are still minor. The perusal of this compromise nowhere shows that any maintenance on behalf of these minor daughters was given to their mother with whom the daughters are residing. There is nothing in this compromise regarding paying of maintenance. Further, at the time of arguments, it was specifically asked to the petitioner whether, as per the conditions, he has transferred half share of 2-B Block-A Ambey Apartment. He stated that he is still ready to transfer his share in the said flat, which means that flat is still in the joint name of the parties. Nothing has been shown as to which of the terms and conditions have been complied

with by the parties and which benefit has been taken by one of the parties under this compromise. Though, a compromise seems to be effected between the parties but it looks that this compromise has not been complied with any of the parties. Therefore, only on this ground, the order dated 24.10.2013 of interim maintenance passed by the Magistrate cannot be set aside. The order passed by the Judicial Magistrate is correct and as per law and does not require any interference from this Court.

As already discussed, nothing has been argued regarding quantum of maintenance by the petitioner. He only argued on the basis of compromise. The petitioner cited judgments passed by the Hon'ble Supreme Court in ***Kale & others vs. Deputy Director of Consolidation, 1976 AIR 807, Poonam Khanna vs. Dr.V.P.Sharma & anr., in criminal appeal No.1625 of 2009 decided on 17.03.2011, Manu Khanna through mother vs. V.P.Sharma & Anr., Criminal appeal No.1991 of 2008 decided on 05.12.2008***, judgment passed by the Hon'ble Delhi High Court in ***Dr.V.P.Sharma vs. State & Anr., decided on 23.01.2009***, judgment passed by the Hon'ble Kerala High Court in ***Sunitha vs. State of Kerala, Crl.R.P. No.461 of 2010 decided on 10.12.2010***, judgment passed in ***Bhupinder Kumar vs. Smt.Versha Rani, decided on 06.10.2004, equivalent citation (2005) 140 PLR 199***, judgment passed by the Hon'ble Delhi High Court in ***Adil & Ors. vs. State & Anr., Crl.M.C. 4159 of 2009, decided on 20.09.2010***, judgment passed by Hon'ble Calcutta High Court in ***Smt.Mousumi Banerjeet vs. Sri Bidyut Kumar Banerjee,***

F.A. No.07 of 2007 decided on 11.09.2009 and judgment passed by the Hon'ble Supreme Court in ***Zenit Mataplast P. Ltd. vs. State of Maharashtra & Ors., decided on 11.09.2009***. I have gone through all the cited judgments and the same having distinguished facts will not apply in the present case.

After the compromise, no benefit has been taken by respondent No.2 nor there is anything to show that terms and conditions of the compromise have been complied with by the parties. Furthermore, even if it is taken that compromise has been effected between the parties, even then the interim maintenance has been granted to the minor daughters. Nothing has been shown by the petitioner, as to how he is not liable to pay maintenance to the minor daughters.

In view of the above discussion, I find the impugned order dated 24.11.2013 passed by learned JMJC, Patiala is correct, as per law and the same is upheld.

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

February 20, 2015
Vgulati

(INDERJIT SINGH)
JUDGE