

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

CRR (F) No.62 of 2014 (O&M)

Reserved on:28.04.2015

Date of decision: 26.05.2015

Mohit Thakkar

... Petitioner

Vs.

Priyanka Thakkar & another

... Respondents

2. CRR (F) No.73 of 2014 (O&M)

Priyanka Thakkar & another

... Petitioner

Vs.

Mohit Thakkar

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Gurinder Pal Singh, Advocate for the petitioner in CRR (F) No.62 of 2014 and respondents in CRR (F) No.73 of 2014.

Mr. Manish Soni, Advocate for the respondents in CRR (F) No.62 of 2014 and petitioner in CRR (F) No.73 of 2014.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of CRR (F) No.62 of 2014 titled as Mohit Thakkar Vs. Priyanka Thakkar & another and CRR (F) No.73 of 2014 titled as Priyanka Thakkar & another Vs. Mohit Thakkar as both these revision petitions arise out of order dated 30.01.2014 passed by the District Judge Family Court, Gurgaon while deciding petition under Section 125 Cr.P.C.

A petition under Section 125 Cr.P.C. was instituted by the wife,

namely, Priyanka Thakkar against her husband, Mohit Thakkar seeking maintenance for herself as also the minor daughter, namely, Pujita. Vide order dated 30.01.2014, the Family Court, Gurgaon has dismissed the petition of the wife and has granted maintenance of Rs.4000/- per month in favour of the minor child from the date of filing of the petition i.e. 08.10.2012.

CRR (F) No.73 of 2014 has been filed assailing the order dated 30.01.2014 passed by the Family Court, Gurgaon to the extent of denial of maintenance to the wife, namely, Priyanka and seeks enhancement of maintenance that has been granted in favour of the minor daughter. CRR (F) No.62 of 2014 has been filed by the husband, namely, Mohit Thakkar raising a challenge to the maintenance of Rs.4000/- that has been granted in favour of Pujita, minor daughter.

Facts which are not in dispute are that marriage between Priyanka and Mohit Thakkar i.e. the parties herein was solemnized at Gurgaon on 16.02.2010 as per Hindu rites and ceremonies. Out of wedlock, a daughter, namely, Pujita was born on 20.02.2011. Wife and minor daughter are staying separately i.e. at the parental home of Priyanka since 2012. Allegations raised by the wife are with regard to harassment and assault at the hands of her husband and other members of the in laws in connection with demand of dowry.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that no interference is warranted insofar as a decision taken by the Family Court denying maintenance to the wife, namely, Priyanka. Such view is being taken for the reason that petitioner No.1 in CRR (F) No.73 of 2014 i.e.

Priyanka/wife is guilty of suppression of material facts and having not approached the Court with clean hands and thereby abusing the process of the Court.

The petition preferred by the wife under Section 125 Cr.P.C. before the Family Court, Gurgaon dated 08.10.2012 is placed on record as Annexure P-1 along with CRR (F) No.73 of 2014. In para 5 of the petition, the wife has averred that she is now completely dependent on her father for her survival as also her child and accordingly, is invoking the jurisdiction of the Family Court under the provisions of Section 125 Cr.P.C. The averments made in para 7 by the wife are categoric and read as follows:

“The petitioner is living at her parental home since then. The petitioner is facing problems to manage her day to day life. The petitioner is entirely dependent for the survival on her father. The petitioner has no source of income or money to maintain her minor daughter and their basic expenditure.”

In the reply filed on behalf of the husband, it was stated that Priyanka was well qualified having done B.Ed. and was working as a Teacher with S.D. Memorial High School, Madanpuri, Gurgaon and drawing a salary of Rs.17,225/- per month. Documents to prove the wife to be working as a Teacher in the school in question were adduced on record as Ex.R-2 to R-10. Tripta Verma, Clerk, S.D. Memorial Senior Secondary School, Madanpuri, Gurgaon was examined as RW1, who in turn proved the salary details of the wife, namely, Priyanka.

Having been confronted with such a situation, the wife has taken a stand before the Family Court that she was being released only Rs.8000/- per month and even though, was made to sign on a certificate reflecting the monthly salary to be Rs.17,225/- per month.

The petitioner has before this Court submitted an affidavit and placed on record at Annexure P-4 dated 11.03.2014 in which she has stated that she was working in S.D. Memorial School and was being paid Rs.8000/- monthly salary, whereas her signatures were even obtained on a salary slip of Rs.17,225/-. She has further deposed that her in laws used to visit the school and fight with the Head Mistress and accordingly, she was forced to submit a resignation letter and as such, has not been working since, 2013.

The petition under Section 125 Cr.P.C. was preferred in October, 2012. The wife had clearly stated in the petition that she had no source of income whatsoever and was completely dependent on her father for her survival as also for her minor daughter. Upon evidence having been adduced on record on behalf of the husband to demonstrate that she was working as a Teacher in a school and drawing a salary of Rs.17,000/- approximately, she took a stand of being paid Rs.8000/- by the school and her signatures being taken on a salary slip reflecting salary of Rs.17,225/-. Such stand can be viewed by this Court only as a afterthought and as a lame attempt to cover up the false stand taken initially at the stage of filing of the petition under Section 125 Cr.P.C.. Even the affidavit placed on record at Annexure P-4 dated 11.03.2014 with regard to having submitted a resignation in the year 2013 does not inspire any confidence. To the contrary, such affidavit at Annexure P-4 is a clear admission on the part of the deponent i.e. Priyanka that she was working in the school in question as on the date of filing of the petition under Section 125 Cr.P.C. i.e. 08.10.2012 and wherein she had falsely deposed of having no source of income whatsoever.

It is by now well settled that a litigant, who approaches the Court of law seeking redressal of any grievance and claims relief is obliged to disclose complete and true facts. The obligation to approach the Court with clean hands is an absolute obligation. A litigant, who attempts to mislead the Court by furnishing false facts or by concealing material facts is not entitled to any relief, interim or final. In **K.D. Sharma V. Steel Authority of India Limited, 2008 (12) SCC, 481**, it was held that no litigant can play 'hide and seek' with the Court. It was further observed that suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy.

In the light of observations made above, the order dated 30.01.2014 passed by the District Judge, Family Court, Gurgaon to the extent of denying maintenance to the wife is upheld.

This Court, however, is of the view that the interest of minor daughter cannot be jeopardized on account of the conduct of the mother.

In para 6 of the petition filed under Section 125 Cr.P.C., it was averred that the husband, namely, Mohit Thakkar and father of Pujita was working as a Manager at Celebration Garden Resort and drawing a salary of Rs.20,000/- per month. It was further averred that father of the husband as also the husband himself are jointly running a catering business and earning Rs.40,000/- per month. The family of the husband was stated to own plots in Krishna Colony, Baldev Nagar and Jyoti Park in Gurgaon. The husband was also stated to be getting Rs.20,000/- rent from the Aircel Mobile Tower installed on the roof of the house. The husband was also stated to be getting Rs.20,000/- per month towards rental income by giving one floor of the residential house on rent. In the reply filed on behalf of the husband, a stand

has been taken that he is earning Rs.8000/- per month towards salary. The reply filed to para 6 of the petition under Section 125 Cr.P.C. is otherwise evasive in nature. Be that as it may, no evidence had been led on behalf of the wife to substantiate the figures towards income as also details of properties furnished in para 6 of the petition. It has, however, gone undisputed that during the proceedings conducted before the Family Court, the husband had deposed in his cross examination that he is ready and willing to pay the school fee and maintenance for the minor girl child.

In the totality of circumstances and keeping in view the fact that the minor child, Pujita was born on 20.01.2011 and would now be at a stage of being admitted to school, this Court is of the considered view that the maintenance granted by the family Court in her favour be enhanced from Rs.4000/- to Rs.6000/- per month w.e.f. the date of filing of the petition under Section 125 Cr.P.C. i.e. 08.10.2012. Ordered accordingly.

But for this modification in the impugned order dated 30.01.2014 enhancing the maintenance in favour of the minor daughter, Pujita from Rs.4000 to Rs.6000/- per month, the order dated 30.01.2014 passed by the Family Court, Gurgaon is upheld.

Both the revision petitions are disposed of in the aforesaid terms.

May 26th, 2015

harjeet

(TEJINDER SINGH DHINDSA)

JUDGE

Note: Whether referred to the Reporter?

Yes