IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.1907 of 2016
Date of Decision.04.11.2016

Kirandeep Singh ....Petitioner

Vs

Bhupinder Kaur and another ....Respondents

2. **C.R. No.3371 of 2016**

Bhupinder Kaur and another ....Petitioners

Vs

Kirandeep Singh ....Respondent

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner in C.R. No.1907 of 2016 and
for the respondent in C.R. No.3371 of 2016.

Mr. Sandeep Kumar Bokolia, Advocate
for the petitioners in C.R. No.3371 of 2016 and
for the respondents in C.R. No.1907 of 2016.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

This order of mine shall dispose of two revision petitions. The revision petition bearing No.1907 of 2016 is at the instance of the husband challenging the order awarding maintenance pendente lite @₹15,000/- per month, during the pendency of the divorce petition moved at his instance and the other one is revision petition bearing No.3371 of 2016 at the instance of the wife seeking enhancement of the same.

Mr. Arshdeep Singh Brar, learned counsel appearing for the petitioner in C.R. No.1907 of 2016 submits that the marriage between Kirandeep Singh and Bhupinder Kaur was solemnized on 09.09.2011 at Faridkot. From the wedlock, a female child Darshpreet Kaur was born on

25.10.2012 at Faridkot i.e. at her maternal house. The said child was suffering from jaundice and the doctor advised his in-laws to keep the child in the hospital for 10 days in the incubator but they ignored the advice of the doctor. They took the child home and adopted other methods, therefore, the daughter has contracted with the hydrocephalus disease.

He submits that even an attempt to lodge the FIR was made but it did not yield any result. The petition under Section 125 Cr.P.C was also filed but the same was withdrawn. The petitioner-husband was working at Lord Krishna Polytechnic College, Subhanpur as Instructor, Electric Engineering where he used to get monthly salary of ₹8000/- per month, as per the salary certificate (Annexure P-1) but thereafter, owing to the disturbance in family relationship, he had to resign from the work and presently he is earning ₹6000/- per month from typing work. Copy of the income tax return for the year 2014-15, which is Ex.P3.

He further submits that as per the notification dated 02.09.2013 issued by the Punjab Health System Corporation, a girl child in the age group of 1-5 years is entitled to free medical treatment at all government hospitals. Awarding of maintenance pendente lite @₹15,000/- per month is not accordance with documentary evidence placed on record, much less, the assessment of income is highly phenomenon and therefore, liable to be set aside.

Per contra, Mr. S.K. Bokolia, learned counsel appearing on behalf of the wife submits that the child is suffering from the aforementioned disease for which expenditure of ₹20,000/- is required every month, as mentioned in Annexure P-1. The husband has huge property yielding hefty earning and it is only a ploy that he is earning his livelihood by doing typing work, therefore, the maintenance pendente lite is liable to increased to ₹30,000/- per month. It is the bounden duty of the father to maintain the ailing child, much less, the distressed wife. The medical proof of the minor daughter cannot be ignored and the earning capacity of the husband can be considered, thus, urges this Court for increasing the maintenance pendente lite.

I have heard learned counsel for the parties, appraised the paper book and of the view that income tax return for the year 2013-14 taken on record and as indicated in the notice of motion order dated 15.03.2016, showed the income of the husband as ₹1,54,012/- per annum and the income tax return for the year 2014-15, annexed as Annexure P-3, showed the income as ₹1,56,200/- per annum. The petitioner had been very fair regarding his previous employment, much less, the resignation tendered by him but he cannot keep away himself from providing financial support to the daughter who is alleged to have been suffering from the disease as referred to above. Equally is the duty of the wife also to look after the minor child, who is stated to be running a cosmetic shop.

The amount of maintenance @₹15,000/- per month is not in consonance with the income tax returns and this Court, while issuing notice of motion, had passed the following order:-

> "*Learned counsel for the petitioner relies upon the income tax return for the year 2014-15 and during the course of hearing has passed on copy of income tax return for the year 2013-14 to show that the income allegedly arrived at by the trial Court in assessing the maintenance pendente lite is highly exaggerated and maintenance pendente lite @₹15,000/- is phenomenon. The copy of income tax return for the year 2013-14 is taken on record.*
>
> *Notice of motion for 8.7.2016.*
>
> *The payment of maintenance pendente lite beyond ₹5000/- shall remain stayed. However, there shall be no stay viz-a-viz litigation expenses.*"

In the aforementioned order, maintenance pendente lite beyond ₹5000/- had been stayed. It is being stated at bar by Mr.Brar that entire arrears @₹5000/- have been cleared.

I am of the view that the maintenance of ₹15,000/- is liable to be reduced. It is fixed at ₹7000/- per month.

As regards the enhancement of maintenance, there is no substance or material on record for enhancement of the maintenance pendente lite as already ordered by the Court below. In respect of Annexure P-5, though it provides free medical treatment but it is always the discretion of the parents or the minor child as well as the affected person to get the suitable treatment of his choice but the socio-economic conditions have also to be taken into consideration.

For the reasons aforementioned, the revision petition bearing No.1907 of 2016 at the instance of the husband is allowed to the aforementioned extent and in view of that, the revision petition bearing No.3371 of 2016 at the instance of the wife is dismissed. Sanguine of the fact that the parties are at loggerheads and particularly when the minor daughter is suffering from the disease, I deem it appropriate to direct the trial Court to expedite the disposal of the divorce petition by affording reasonable opportunities to both the parties and dispose of the same within a period of one year from the date of receipt of certified copy of this order.

(AMIT RAWAL)
JUDGE

November 04, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No