

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-11348 of 2014

DATE OF DECISION: 16.02.2016

Jasmeet Singh

.....Petitioner

Versus

Parveen Kaur

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. SPS Sidhu, Advocate
for the petitioner.

Mr. Bipan Ghai, Senior Advocate with
Mr. Vishavjit S. Virk, Advocate
for the respondent.

DAYA CHAUDHARY, J.

This petition has been filed under Section 482 Cr.P.C. for setting aside order dated 10.4.2013 passed by JMJC, Samrala and also order dated 7.3.2014 passed by Additional Sessions Judge, Ludhiana, whereby, maintenance to the tune of ₹ 10,000/- per month along with back arrears from the date of filing of the application has been allowed over and above the amount of maintenance of ₹ 10,000/- which the respondent is getting from the petitioner under the Navy Act, 1957 (hereinafter referred to as 'the Act').

Learned counsel for the petitioner submits that the application filed by the respondent under Section 125 Cr.P.C. was just a counter blast

to the petition filed by the petitioner under Section 9 of Hindu Marriage Act. Learned counsel further submits that the trial court has not considered the fact that the respondent has already been granted the maintenance to the tune of ₹ 10,000/- per month by the Navel Officer under Section 31 of the Navy Act. Learned counsel also contends that both the Courts below have failed to appreciate the fact that the respondent had hardly lived for a period of 15 days in the company of the petitioner and left her matrimonial house without any reasonable cause. Even the factum of awarding the maintenance at the rate of ₹ 10000/- per month by the Navel Officer under Section 31 of the Navy Act in favour of the respondent-wife has been concealed by her in the application filed under Section 125 Cr.P.C and thus she is not entitled for further maintenance. Moreover, the petitioner is also supporting his old parents and other family members.

Learned senior counsel for the respondent submits that both the orders passed by the lower Court are well reasoned. The amount of maintenance has been granted to wife under Section 125 Cr.P.C. and the amount which she is getting from Navel authority is to be adjusted. Learned senior counsel further submits that the petitioner has also filed Civil Revn. No. 8007 of 2015, which was dismissed by this Court on 15.12.2015 by holding that that the respondent-wife has been granted maintenance pendente lite i.e. ₹ 30,000/- from the date of application i.e. 15.7.2015 and therefore, even the adjustment qua the maintenance under Section 125 Cr.P.C. and family maintenance, which she is drawing from Indian Navy shall be effective from the said date only i.e. 15.7.2015.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on record.

Admittedly, the petitioner-husband by way of filing Criminal Revn. No. 8007 of 2015 before this Court has challenged order dated

21.9.2015 passed by District Judge, Ludhiana, vide which, maintenance pendente lite under Section 24 of the Hindu Marriage Act, 1955 was granted to the respondent. The conclusion recorded by the learned District Judge in the aforesaid order, reads as thus:-

“In the light of the above discussion, this application filed u/s 24 HMA is hereby allowed and the respondent is directed to pay maintenance pendente lite @ Rs.30,000/- per month from the date of application to the applicant. The applicant is also entitled to get litigation expenses worth Rs.15,000/- relating to the present litigation. The maintenance if any received by the applicant u/s 125 Cr.P.C. and the monthly family maintenance received by the applicant out of the salary of the respondent from Indian Navy is to be adjusted against maintenance pendente lite @ Rs.30,000/- p.m.”

It is also not disputed that respondent-wife has also challenged the aforesaid order by way of filing Civil Revision No. 8486 of 2015 and both the petitions were decided by this Court by passing a common order dated 15.12.2015. While dismissing the revision petitions filed by both the parties, following order was passed:-

Being aggrieved, both the parties are before this Court seeking revision of the said order. Therefore, this order shall dispose of both these revision petitions. Ex facie, the Court has awarded a sum of ₹30,000/- per month by way of maintenance, which is inclusive of ₹10,000/-, that has been granted to the respondent-wife in proceedings under Section 125 Cr.P.C. and another sum of ₹ 10,000/- that she is getting by way of family

maintenance out of the salary of the petitioner-husband from Indian Navy. Nothing was brought on record, least any cogent or credible material to show that the respondent-wife has any independent source of income and is thus, well equipped to maintain herself. Needless to assert, petitioner being the husband of the respondent is under obligation to maintain her. Nothing could be pointed out by learned counsel for the husband as to how the conclusions arrived at by the trial Court were either contrary to the position on record or suffered from any material illegality. Likewise, the submission that has been advanced by learned counsel for the wife; that since the learned District Judge has ordered that amount of maintenance that has been granted to the wife under Section 125 Cr.P.C. as also the amount she is getting from Indian Navy, be adjusted towards a sum of ₹ 30,000/-, the result would be that entire amount that she has already received from the aforesaid two sources, shall be first adjusted and only thereafter she would be entitled to draw the maintenance pendente lite, lacks conviction and cannot be countenanced. Apparently respondent-wife has been granted maintenance pendente lite i.e. ₹ 30,000/- from the date of the application i.e. 15.07.2015 and therefore, even the adjustment qua maintenance under Section 125 Cr.P.C. and family maintenance that she is drawing from Indian Navy, shall be effective from the said date i.e. 15.07.2015, and not from a period prior thereto.

That being so, no interference, in exercise of revisional jurisdiction under Article 227 of the Constitution of India, is

warranted. The petitions being devoid of merit are accordingly dismissed.

In view of the findings recorded in order dated 15.12.2015 while dismissing the revision petitions filed by this Court and also the fact that same issue is there in the revision petition, no ground is made out to interfere in the orders passed by the Courts below. Accordingly, there is no merit in the contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

February 16, 2016
pooja

(DAYA CHAUDHARY)
JUDGE