

In the High Court of Punjab and Haryana at Chandigarh

CrI. Misc. No. M-2430 of 2013 (O&M)

Date of Decision: 23.9.2016

Vishal Gupta

.....Petitioner

Versus

Deepti alias Kajal Gupta and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

Mr. Vivek Salathia, Advocate
for the respondents.

ANITA CHAUDHRY, J(ORAL)

This petition has been filed under Section 482 Cr.P.C seeking quashing of order dated 10.5.2012 passed by the Chief Judicial Magistrate, Amritsar and the order dated 8.12.2012 passed by the Additional Sessions Judge, Amritsar wherein the interim maintenance of Rs. 5,000/- per month each was allowed to respondents No. 1 and 2.

Few facts which are essential need to be noted.

Deepti alias Kajal was married to Vishal in December 2005. A child was born to them in 2006. The parties cohabited at Amritsar. Differences arose and a petition under Section 125 Cr.P.C. was filed in January 2011. The wife had alleged that the husband was running an industry in the name and style of Vishal Knitting Industry and his income was not less than Rs. 1,00,000/- per month. In the income tax returns, the income was shown as Rs. 1,29,502/- per annum. The trial Court assessed

the income to be Rs. 15,000/- per month and allowed Rs. 5,000/- per month to the wife and Rs. 5,000/- per month to the child from the date of the application. The order was passed by the Chief Judicial Magistrate on 10.5.2012.

Aggrieved by the order, Vishal filed a revision which came to be dismissed on 8.12.2012.

The petitioner had placed on record some documents and his own affidavit and had filed the sale deeds which were taken on record.

The submission on behalf of the petitioner is that the petitioner was only earning Rs. 8,000/- per month. The counsel had referred to Annexure Annexure P-8. It was urged that due to losses, the petitioner had sold the property in May 2012 and he was now working as a Supervisor in the factory namely Fine Embroidery in district Una and he is unable to pay the maintenance. The counsel had also referred to the temporary identity card issued by ESI.

On the other hand the complainant side has urged that there were arrears to the tune of 3.40 lacs and the industry is still running and the sale is to the brother-in-law for a nominal amount and Sandeep Mahajan is the brother-in-law of the petitioner and they have managed the certificate to show that the petitioner was employed with the brother-in-law and it was an internal arrangement to play fraud on the wife and they were misleading the Court. It was urged that they have placed on record the accounts statement from 2010 to March 2015 which would show that there are transactions over Rs. 40.00 lacs during this period and the amount was deposited and was withdrawn after few days so that the balance would remain less. It was urged that the case was adjourned on number of times to enable them to pay

the maintenance but the same was not paid and ultimately the stay was vacated in December 2015.

When confronted with the relationship, the counsel for the petitioner admitted that Sandeep Mahahan was the brother-in-law of the petitioner.

The concern is said to have been sold but the sale is in favour of the brother-in-law. Even the certificate of employment has been procured. It is a case of the husband hiding his assets. The transfer of the assets appears to be to avoid payment of maintenance. The statement of accounts of Vishal Gupta shows that there are transactions worth Rs. 40.00 lacs in five years. The petitioner was in the business of manufacturing of blankets. He has transferred some properties to his brother-in-law. His daughter is now over 12 years.

I find no infirmity in the orders passed by the Courts below.

The petition is dismissed with costs of Rs. 10,000/- which would be paid to the respondents as litigation expenses.

**(ANITA CHAUDHRY)
JUDGE**

September 23, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No