

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

**CRM-M-36045-2013
Date of decision: 03.08.2016**

Dr. Narinder Mohan Bhalla

.....Petitioner

Versus

Reni Kapoor

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Petitioner in person.

Mr. Rishav Jain, Advocate,
for the respondent.

Ritu Bahri, J.

Prayer in this petition is for quashing of the order dated 07.08.2013 (Annexure P-11) passed by the Additional Sessions Judge, Sangrur, upholding the order dated 01.12.2012 (Annexure P-10) passed by the Judicial Magistrate Ist Class, Sangrur.

Marriage of Dr.Narinder Mohan Bhalla-petitioner was solemnized with Reni Kapoor on 07.03.2003 as per Hindu rites and rituals. Out of this wedlock, one daughter namely, Bhavika, was born on 26.08.2004. However, due to some misunderstandings, they could not pull on together. Ultimately, respondent-wife filed an application under Section12 of Protection of Women from Domestic Violence Act, 2005, alleging that she had been thrown out of her matrimonial house and was forced to live without any source of income. It was alleged that her husband (petitioner herein) was a doctor by profession and running a clinic under the name and style of 'Bhalla Nursing Home ' at Punia Colony, Sangrur. It was further alleged that the respondent-wife has a minor daughter to look after.

The trial Court, after hearing contents of both the parties, allowed the application and directed the petitioner-husband to pay Rs.10,000/- per month towards maintenance of the daughter and Rs.5000/- to the wife (respondent herein) keeping in view that the present petitioner was running a private nursing home and working as Associate Professor in Akal College, Mastuana, where he was getting a salary of Rs.40,000/- per month. The said order has been upheld by the Additional Sessions Judge vide impugned order dated 07.08.2013.

The petitioner has appeared in person and has argued that he had voluntarily agreed to pay Rs.5000/- per month to respondent-wife in a proceeding filed under the Hindu Adoption and Maintenance Act. Hence, he could not be held liable to pay any maintenance under the Protection of Women from Domestic Violence Act.

Heard.

Earlier, the matter was referred to the Mediation and Conciliation Centre of this Court for an out of Court settlement. However, as per report of the Mediator, the parties could not reach at an amicable settlement. In a petition under Section 12 of the Act, the applicant-respondent had rightly filed an application under Section 23 read with Sections 18, 19, 20 and 22 of the Act before the Judicial Magistrate Ist Class, Sangrur. As per Section 26 of the Act, the respondent-wife could seek grant of monetary benefit in addition to any relief granted by a civil court, family court or a criminal court. Relevant provision of Section 26 of the Act is reproduced as under:-

“26. Relief in other suits and legal proceedings.-- (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, he shall be bound to inform the Magistrate of the grant of such relief.”

Hence, there is no bar that a Magistrate cannot grant interim monetary relief when an application under Section 12 of the Act is made for grant of such relief. Keeping in view the rising prices, the maintenance awarded by the Courts below to the tune of Rs.10,000/- to the daughter and Rs.5,000/- to the respondent-wife is not on the higher side. Moreover, vide order dated 26.07.2016 passed by this Court, the petitioner was directed to bring a draft of Rs.2 lacs towards maintenance, which was due to him. The respondent was also directed to be present in Court along with her daughter on 03.08.2016. In compliance with the said order, the respondent is present in Court along with her daughter. However, the petitioner has not brought the draft of Rs.2 lacs to be paid to the respondent towards arrears of maintenance.

In the facts and circumstances of the case, this Court is of the view that the interim maintenance awarded by the Courts below is not on the higher side and the same does not require any interference.

Resultantly, the present petition stands dismissed.

03.08.2016
ajp

(RITU BAHRI)
JUDGE

speaking/non-speaking : Yes/No
Reportable : Yes/No