

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-35269 of 2014

Date of decision : 04.05.2016

Renu Bala

... Petitioner

versus

Sumit Narang and others

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sanjeev Sharma, Advocate for the petitioner

Mr. Ravinder Rana, Advocate for the respondents

ANITA CHAUDHRY, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. assailing the order dated 21.03.2013 passed by the Addl. Chief Judicial Magistrate, Chandigarh and order dated 04.06.2014 passed by Addl. Sessions Judge, Chandigarh wherein the order of the trial Court granting the interim maintenance was upheld.

Few facts are necessary. The petitioner was married to respondent No. 1 in November 2001. Two children were born out of the wedlock and are now living with the mother. A complaint under the Domestic Violence Act was filed in 2012.

A prayer for maintenance and residence order was made. The trial Court vide its order dated 21.03.2013 allowed interim maintenance of Rs. 5500/- to the complainant and two children and Rs. 5500/- towards rental accommodation from the date of filing of the application. It appeared from the record that the couple were living in the rented accommodation.

Aggrieved an appeal was preferred by the wife as well as the husband. The wife was seeking enhancement whereas the husband was seeking modification in the amount. The Appellate Court noted that a petition under Section 125 Cr.P.C. was filed wherein the Magistrate had awarded Rs. 5500/- to the petitioner. The Appellate Court upheld the order passed by the Magistrate holding that both the parties were still to lead evidence. It did not find any good grounds to interfere.

I have heard both the sides.

Learned counsel for the petitioner had urged that the husband owned four properties and was getting rent and a meagre amount had been awarded to the wife and children. It was urged that the children were studying in St. Xavier Public School, Chandigarh and the petitioner was facing difficulty in even paying the school fees.

A query was posed as to whether any document had been placed on the record to show the amount of fees paid or to show that the rent being paid by the petitioner was at the higher rate.

The counsel states that no document had been placed before the trial Court and not even before this Court. It was urged that maintenance for the last three months had not been paid.

On the other hand counsel for the respondents submits that the husband had filed a divorce petition wherein the Court had awarded Rs. 4000/- as maintenance. It was urged that as per his instructions all the payments have been made. It was urged that the case is being posted for evidence of the petitioner for the last two years but the petitioner is not coming forward to make her statement or adduce evidence.

Maintenance had been awarded by the trial Court in March 2013 on purely guess work as the petitioner failed to produce any document which could enable the Court to determine the income of the petitioner. I find no reason to take a different view. There are allegations and counter allegations. The children are no doubt studying but it was the duty of the petitioner to produce the payment receipts before the trial Court to enable it to arrive at a figure. Even here the petitioner has failed to produce any document. I find no infirmity in the order.

The petition is dismissed.

(ANITA CHAUDHARY)
JUDGE

May 04, 2016
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