

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-8435 of 2016(O&M)

Date of decision : 22.09.2016

Sukhdev Kumar Sharma

... Petitioner

versus

Kamal Sharma

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ajay Singla, Advocate
for the petitioner

ANITA CHAUDHRY, J.(ORAL)

Crl. Misc. No. 29762 of 2016

Application is allowed and Annexures P-10 to P-12 are taken on record.

Crl. Misc. No. M-8435 of 2016

The instant petition is for quashing of the order dated 05.12.2015 passed by Additional Sessions Judge, Chandigarh and the order dated 08.07.2013 passed by the Judicial Magistrate Ist Class, Chandigarh in a petition filed under Section 125 Cr.P.C. The Court below had allowed Rs. 3000/- per month as interim maintenance to the wife.

Kamal Sharma was married to Sukhdev Kumar Sharma in 1976. They have two children. Both of them are married and living separately. The parties lived together till July 2009. It is alleged that the husband left the house taking his articles and refused to maintain the wife. The wife had claimed that the husband was a Superintendent and had retired from Central Excise and Taxation Department in 2005 and was getting salary of Rs. 50,000/- and was practising lawyer and was earning Rs. 30,000/- per month and was maintaining a luxury car and was member of the Golf Club at Panchkula and Chandigarh, besides this he had investments in

The respondent in reply pleaded that he had retired in 2005 and he was empaneled as a standing counsel by his parent department for looking after their cases in the High Court but he was not doing any private practice and his monthly pension was about Rs. 12,000/- and major amount was spent on his medical treatment and the respondent was used to a lavish life and she owned a car and had several investments. It was also pleaded that he had never neglected or refused to maintain her and infact she had abandoned him. It was pleaded that the wife was an income-tax payee. It was also mentioned that litigation with respect to a house in Sector 44 Gurgaon had been filed and the wife was the benami owner of the house and he had pooled in all his resources and she and her brother wanted to grab that property.

The trial Court dismissed the application for interim maintenance for the reason that the wife had left his company without sufficient cause and respondent need money for his medical treatment, food and rented accommodation and did not have sufficient income and the wife was an income-tax assessee. It also noted that the husband was giving entire salary to wife during service and she had purchased properties including the house in which she was living.

Aggrieved with the order a revision was filed by the wife which allowed maintenance to the tune of Rs. 3000/- per month to the wife from the date of order.

Aggrieved by the order the husband has filed this petition.

Learned counsel for the petitioner has urged that the petitioner was over 65 years of age and had suffered a brain stroke and the medical record is available on record. Counsel states that a sum of Rs. 10,000/- has been deposited. He refers to Annexure P-11.

The petitioner was to inform the payment that had been made as there

were arrears of over Rs. 90,000/-. Admittedly the petitioner has only paid Rs. 10,000/-

on 09.08.2016. Learned counsel for the petitioner had referred to the application filed by the petitioner under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the argument was that the petitioner was claiming maintenance from his son and the wife.

A perusal of Anneuxre P-12 shows that the petition under 2007 Act was filed on 12.05.2016 i.e. five months after the order was passed by the Courts below. It is only an attempt to create evidence in his own favour.

Learned counsel for the petitioner had stated that the petitioner needed money for his treatment and had referred to the discharge slip (Anneuxre P-2). A perusal thereof shows that the petitioner had undergone brain stroke in 2009. Lastly he was admitted in the hospital for about fortnight in December 2015. He is on medicines. It was not disputed before me that the petitioner was getting pension. He has not placed any document to show that pension was only Rs. 12,000/-. The wife had claimed that he was earning some amount from practice. Even if the petitioner does not have income from his practice he is getting pension of Rs. 12,000/-, he can certainly spare Rs. 3000/- for his wife. I find no infirmity in the order passed by the Court below.

The petition is dismissed in limine.

September 22, 2016
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(ANITA CHAUDHRY)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No