

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9443-2016

Date of Decision:- 21.09.2016

Salma

....Petitioner

Versus

Chiragudeen

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. M.S. Randhawa, Advocate
for the petitioner.**

RITU BAHRI, J. (Oral)

Petitioner has filed the present petition against order dated 10.04.2015 (Annexure P-1) passed by learned Sessions Judge, Narnaul whereby revision filed by the respondent against order dated 19.07.2014, passed by Judicial Magistrate 1st Class, Narnaul, has been allowed.

After taking into consideration the facts and all the contentions pertaining to appreciation of evidence, learned Sessions Judge, Narnaul, has allowed the revision filed by the respondent (husband), by virtue of impugned order dated 10.04.2015 (Annexure P-1), which in substance is as under: -

“The respondent-petitioner has been granted interim maintenance under the provisions of Prevention of Women from Domestic Violence Act, 2005 and same has been granted by learned lower court on the ground that fact of marriage of the petitioner with the respondent has been established as the petitioner tied the nuptial knot with the respondent in the year 2008 and thereafter the respondent Salma was subjected to cruelty and there was

persistent demands of dowry. Even the revisionist Chiragudeen got aborted the fetus of the respondent in criminal collusion with his parents and it has also been alleged that respondent Salma was kicked out from her-in-laws house in the month of January, 2013 with a view to coerce her to fulfill the unlawful demand of dowry. But learned trial Court has failed to take notice of the fact that the parties are governed by Muslim law and it has been alleged by the revisionist-respondent Chiragudeen that being fed up with insensitive and irresponsible behaviour of the petitioner Salma, she was divorced by revisionist-respondent on 20.02.2012 as per Shariyat law. So, when respondent-petitioner Salma has already been divorced on 20.02.2012 then in the opinion of this Court she is not entitled to any maintenance because monetary relief as per Section 20 is available to aggrieved person and to the child of the aggrieved person and aggrieved person has been defined in Section (2) as "aggrieved person" means by any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. Thus, from Section 2(a) it becomes apparent that for grant of monetary relief or interim maintenance the woman must be in domestic relationship with the respondent. As per allegations of the revisionist-respondent, he has already divorced his wife. So, domestic relationship has already come to an end. So, when there is no domestic relationship between the revisionist and respondent, then interim maintenance allowance cannot be granted to the petitioner Salma, who was not the wife of revisionist-respondent Chiragudeen on the day of filing of the petition.

11. *In view of the submissions made by the revisionist, this Court is of the opinion that interim maintenance should not have been granted to the petitioner-respondent Salma because if the allegations of the divorce levelled by revisionist are found to be correct then it would be very difficult for the revisionist to recover the amount which would be paid in compliance of the order passed by learned trial Court. So, this stage petitioner-respondent Salma is not entitled to interim maintenance allowance."*

Meaning thereby, the learned Sessions Judge, has examined the matter in right perspective, recorded the cogent grounds and correctly allowed the revision filed by respondent (husband).

Learned counsel for the petitioner did not point out any material/reasons, much less cogent, so as to warrant any interference in the

impugned judgment. Such order, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited jurisdiction of this Court under Section 482 Cr.P.C., unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned order deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant petition is hereby dismissed as such.

September 21, 2016
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No