

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision(F) No. 6 of 2014 (O&M)
Date of Decision: 30.8.2016

Sant Ram

.....Petitioner

Versus

Kumari Nidhi

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sushil Jain, Advocate
for the petitioner.

Mr. Harish Bhardwaj, Advocate
for the respondent.

ANITA CHAUDHRY, J (ORAL)

CRM-1053-2014

Application is allowed for the reasons stated therein.

Delay of 9 days in filing the revision petition is condoned.

CRR(F)-6-2014

The petitioner is assailing the order dated 4.10.2013 vide which the maintenance has been allowed to the minor child by the Family Court.

Counsel for the petitioner states that since there was a stay by the High Court on 15.1.2014, no amount has been paid.

The minor daughter of the petitioner filed a petition under Section 125 Cr.P.C. Her mother was married to the petitioner in February 2001. There were disputes between the couple and the matter was resolved and a compromise was effected. In that compromise the petitioner had

agreed to pay Rs. 45,000/- for his child and that amount was deposited in the shape of Kisan Vikas Patra. Another sum of Rs. 45,000/- was given to the mother and the parties had agreed to settle all their claims before the panchayat.

Considering the income of the father as Rs. 7000/- per month, the Family Court has allowed Rs. 2500/- per month as maintenance to the minor child from the date of the application i.e. 1.2.2011.

Counsel for the petitioner has urged that the compromise was effected before the conciliation committee and a sum of Rs. 45,000/- was deposited for the child in the shape of Kisan Vikas Patra and the mother has remarried and she is capable of maintaining the child and once all the disputes had been settled, the respondent could not claim any further maintenance.

The submission, on the other hand, was that the child was studying in the 2nd class when the petition was filed and the mother is unemployed and suffering from diseases and the petitioner was earning Rs. 40,000/- per month but they were unable to bring any evidence and he had no other responsibility and the father cannot wriggle out of his responsibility to maintain his legitimate child. It was urged that the lump-sum amount is lying deposited in the Kisan Vikas Patra and the child needs money for her education and upkeep. Reliance has been placed on '*Nirmal Singh versus Gurvinder Kaur 2008(1) R.C.R. (Criminal) 970*'.

I have gone through the submissions made by the parties. A petition under Section 13-B of the Hindu Marriage Act was filed and a decree of divorce by mutual consent was passed in August 2007. The father had given up his claim for the custody of the child. The parties had agreed

that the child would remain with the mother.

A joint statement given before the Sub Divisional Judicial Magistrate, Gohana reads as under:-

“Stated that our compromise arrived before conciliation committee is correct and the same was accepted. Minor Nidhi will remain with her mother. Her father will have no claim upon her custody. Amount of Rs. 45,000/- has already been determined and the same will be paid to Pinki after making statement before the court which is fixed for 20.7.2007. During this on 16.1.2007 Rs. 45,000/- would be deposited in the bank in the name of Nidhi. Rs. 45,000/- would be remained deposited with Shri. R.P.Mor Advocate and after recording of statement of Pinki the same will be handed over to her.”

According to the petitioner, the mother had taken the responsibility to bring up the child and maintain her till she attained majority and all the disputes had been settled, therefore, he was not liable to pay any amount. A perusal of the statement shows that no statement was made that the amount, that was paid, was for the maintenance or for the rest of her life. The mother could not make a statement against the interest of the child. No certificate was issued by the counsel representing the minor that the compromise was for the welfare of the minor. Order 32 Rule 7 of the Civil Procedure Code provides certain safeguards. The petitioner cannot take benefit of the statement given by the guardian and wriggle out of his responsibility to maintain his legitimate child. The amount that was paid would not be sufficient for her maintenance, education and upkeep.

I find no infirmity in the order passed by the Court below.

Petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

August 30, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No