

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

**Crl. Rev. (F) No.153 of 2015 (O&M)
Date of decision : 22.08.2016**

Jai Parkash

.....Petitioner(s)

Versus

Vishali and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sachin Luthra, Advocate
for the petitioner.

Mr. Arun K. Bakshi, Advocate
for the respondents.

ANITA CHAUDHRY, J.

This revision has been filed against the order dated 04.05.2015 vide which the Family Court at Ambala allowed interim maintenance of Rs.2,500/- to the wife and Rs.1,500/- to the child from the date of filing of the petition.

Aggrieved by the order, the husband has filed this revision and his plea is that the wife had concealed material facts from the Court and had not come with clean hands and therefore, she was not entitled to any maintenance. His plea is that he was a driver and used to ply a tractor on hire basis and work is uncertain and it is not necessary that he would get work every day and he did not have the income to maintain the respondents whereas the wife was living a lavish life and had susceptible sources of

income which comes out clearly in the cross-examination. It was pleaded that they were married in 2009 and the child was born in October, 2010 and they were living separately since 2012 and in June, 2013 the wife had bought a house and the value shown in the sale deed was Rs.8.5 lacs whereas the market value of it was more than Rs.40 lacs and she had purchased a car and various bills placed on record would show that she has been purchasing luxury items. He also pleads that the wife had got an FIR registered against him which was ultimately cancelled as imputations were found to be wrong.

The co-ordinate Bench before whom the matter was placed for first time issued notice of motion but the respondent remain un-represented despite service and the Secretary, High Court Legal Services Committee was directed to appoint a counsel to assist the Court. Thereafter, time and again adjournments were sought to seek instructions and address arguments. There was no appearance thereafter and again another counsel had appeared. On the last date, there was no appearance on behalf of the respondents but today another counsel was appointed by the Legal Services Committee.

Heard.

The counsel for the petitioner refers to the petition filed by Vishali and it was urged that the mother of Vishali had died long back and the plea raised by the respondent was that her father was addicted to liquor and it was her grand-mother and her father's sister who had solemnized her marriage and she had no help from her parent's side but has been buying property worth more than Rs.40 lacs and it is a known fact that the real value is not mentioned in the sale deed so as to avoid stamp duty. It was

urged that the respondent has chosen not to appear as she was unable to answer the posers. It was urged that the respondent has admitted the child in a school where the yearly expenses are between Rs.20,000 - 25,000/- per month and there is an admission in the cross-examination (Annexure P-5) and the statement would show that she has purchased a refrigerator, air conditioner, plasma T.V. and home theater but failed to disclose her source of income and when a party conceal facts, she is not entitled to any relief. It was urged that he was barely able to sustain himself and was ready to pay for the child.

On the other hand, it was submitted that it is the duty of the husband to maintain the wife and the child and his income was not less than Rs.15,000/- per month and the petitioner does not dispute that he plies a tractor on hire basis.

A perusal of the petition filed under Section 125 Cr.P.C. shows that Vishali's father was stated to be a liquor addict and had not contributed anything in the marriage of Vishali. It was the grand-mother and the maternal aunt who had pooled their resources to marry her. Vishali had also pleaded that she was living separately from the grand-mother. It was also claimed that the husband was a driver and used to shift the tractors from one place to another and was earning more than Rs.50,000/- per month.

The respondent has purchased a property worth Rs.7.5 lacs within 1½ year of her separation. She has also purchased a Swift car. It was stated that it was gift but no document was produced to show that any amount was transferred in her account. The child is studying in a school where the annual fees is Rs.25,000/-. There would be more expenses as well. The respondent has been unable to explain from where she was getting

the funds to pay for the fees. She has purchased the house-hold articles some on installments but mostly on cash payment. It appears that the respondent has hidden some facts from the Court and she has resources but she is not ready to disclose them. In such eventuality, she is not entitled to any maintenance. The petition is partly allowed. The petitioner would pay the maintenance only to the child as ordered by the trial Court.

Nothing contained in this order shall be construed as an expression on merits of the case which the Court below would adjudicate without being inhibited by the observations made herein.

22.08.2016

Sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No