

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision (F) No. 45 of 2015

Date of decision : 27.05.2016

Surender Kumar Gupta

..... Petitioner

versus

Nidhu Gupta

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

**Present: Mr. K.B. Sharma, Advocate
for the petitioner**

**Mr. M.S. Chandel, Advocate
for the respondent**

ANITA CHAUDHRY, J.

The petition is by the father aggrieved by the order dated 16.02.2015 passed by the Family Court, Faridabad, which allowed interim maintenance of Rs. 15,000/- to the unmarried daughter staying with him.

Nidhi daughter of the petitioner had filed a petition under Section 125 Cr.P.C in August, 2014. She was 24 years old and was doing her MCA. Her mother had died in the year 2009. Nidhi has an elder sister and a brother. She had claimed that her brother and father were cruel towards her and treated her rudely. She had pleaded that she had no income and father was running a store and earning Rs. 1,50,000/- per day. It was pleaded that he was getting Rs. 45,000/- per month as rent from a property and he had refused to maintain her. It was pleaded that monthly income of the father was Rs. 45,00,000/- and she claimed Rs. 15,00,000/- per month as interim maintenance.

In the written statement filed by the father, it was pleaded that the petitioner was 25 years old. His wife had died due to breast cancer at the age of 46

years. It was pleaded that he alongwith his son were running a ration and General Store and both his daughters during the life time of their mother became careless, disobedient and fell in bad company and when he tried to stop them, when she raised issues. It was pleaded that he wanted to marry them off but they wanted to marry boys of their own choice. It was pleaded that elder daughter was Ph.D. and a teacher in Modern Vidyalaya and the petitioner was a final year student of MCA. The son got married in June, 2014. It was pleaded that there was only one kitchen in the house and both his daughters knowingly and intentionally misbehaved with the daughter-in-law and used to put more salt and spices and created nuisance in the house. It was pleaded that the daughters had filed a suit claiming ownership of the house. It was denied that he had any rental income. The respondent produced his income return to show that the income each year was about Rs. 3,50,000/-. It was pleaded that the petitioner was taking part-time tuitions and was doing job work and was earning for herself. It was pleaded that had his behaviour being cruel towards his wife and daughters, his wife would not have executed a Will in his favour in respect of all her properties.

No rejoinder was filed.

The Family Court observed that the exact income of the respondent could only be assessed after the evidence was led by both the parties. It noted that the daughter was unmarried and was staying with father and the monthly income was around Rs. 35,000-45,000 per month, therefore, Rs. 15,000/- was granted as interim maintenance from the date of filing of the application.

The submission on behalf of the petitioner was that the course has ended and daughter was staying in the same house and the brother was married and the Court had taken the income of the petitioner to be Rs. 35,000-45,000/-, out of which Rs. 15,000/- has been allowed to one daughter, which was on the higher side.

It was urged that father was ready to marry the daughter but she was not ready and

the father and daughter are not on speaking terms.

On the other hand, the submission was that the income of the father was much higher and the income shown in the income tax return was on the lower side and the respondent was a student and she had to bear her day-to-day expenses on her own.

There is no material to ascertain the year in which Nidhi had joined her MCA course. According to the petitioner, the course has ended. The petition was filed in the year 2014 and even if it was a two years course, the course will end by July, 2016. It was not disputed before me that respondent is living in the same house. There is a common mess, therefore, there is no other expenses except the clothes and the amount that would be spent on the college fee, books etc. In my view, considering the income assessed and the amount that was allowed to the daughter it is on the higher side. The petitioner had failed to place any receipt to show the amount of fees paid or any other material to show her own expenses. The married son is working with the father in the same ration shop, there are two other family members. The Court below had awarded higher amount to one family member, without considering the fact that the father would have his own expenses. The order is modified and the maintenance is reduced to Rs. 8,000/- per month payable from the date of the application. The trial Court would expedite the proceedings and the parties would be given not more than three opportunities to lead their evidence. If any amount has been paid that shall be adjusted. Copy of this order be sent to the trial Court.

The petition is disposed of with the aforesaid modification.

May 27, 2016

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(ANITA CHAUDHRY)
JUDGE