

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

CRM No. M-13550 of 2017

Date of decision: 21.04.2017

S.B. Sharma

..... Petitioner.

Versus

Anupma Sharma

..... Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ritesh Kumar Bansal, Advocate for the petitioner.

LISA GILL, J.

The petitioner is aggrieved of order dated 31.01.2017 (Annexure P-4) passed by the learned Sessions Judge, Yamuna Nagar, at Jagadhri, whereby order dated 10.10.2016 (Annexure P-2), passed by learned Civil Judge (Senior Division) Yamuna Nagar at Jagadhari has been set-aside. The petitioner has been directed to pay a sum of ₹ 5,000/- per month to the respondent-wife as interim maintenance.

Learned Civil Judge (Senior Division), Yamuna Nagar at Jagadhari vide order dated 10.10.2016 (Annexure P-2) declined to grant interim maintenance to the respondent-wife during the pendency of her petition under Section 125 Cr.P.C. for grant of maintenance, on the ground that she is living with her son, who was earning a livelihood by taking tuitions. This order was challenged by her. Order dated 10.10.2016 was set-aside by the learned Sessions Judge, Yamuna Nagar at Jagadhari, while holding that the present petitioner who is admittedly the husband of the respondent cannot escape his liability merely because his wife was living with their son, who was earning a sum of ₹ 5,010/- per month. It is specifically observed that the present petitioner was receiving a pension of

approximately ₹ 30,000/- per month. Therefore, it was directed that a sum of ₹ 5,000/- per month be paid to the respondent-wife as interim maintenance.

Learned counsel for the petitioner submits that order dated 10.10.2016 (Annexure P-2) has been correctly passed by the learned Civil Judge (Senior Division), Yamuna Nagar at Jagadhri. The respondent is admittedly living with their son, who is earning a handsome amount. Furthermore, the petitioner is an old man suffering from various ailments. Therefore, order dated 31.01.2017 be set aside and order dated 10.10.2016 be upheld.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

It is not in dispute that the petitioner is receiving a sum of approximately ₹ 30,000/- per month as pension. Further on a pointed query put to learned counsel for the petitioner in regard to the ailments of which the petitioner is purportedly suffering, it is submitted that he is suffering from problem of dry eyes, certain skin problem and kidney problem. However, no details of the skin or the kidney problem is forthcoming. Neither is learned counsel for the petitioner able to point out any serious ailment suffered by the petitioner. Be that as it may, it is correctly held by learned Sessions Judge Yamuna Nagar that the petitioner cannot escape his liability to maintain his wife only on the ground that she is living with their son, who is earning his livelihood. It is observed in order dated 31.01.2017 (Annexure P-4) that as per the letter of intent/appointment issued to the son of the parties, it appears that his monthly net take home salary is ₹ 5,010/-, which definitely cannot be construed to be a handsome salary. Furthermore, the respondent is the legally wedded wife of the petitioner. She is not having any means of livelihood, thus

the petitioner is legally bound to maintain her. The quantum of interim maintenance is not excessive in the facts and circumstances of the case and can always be adjusted by the learned trial Court at the time of final adjudication.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned order dated 31.01.2017 (Annexure P-4), which calls for interference by this Court in exercise of its jurisdiction under Section 482 Cr.P.C.

This petition is accordingly dismissed.

(LISA GILL)
JUDGE

21.04.2017

PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*