

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

Criminal Misc. No.M- 23528 of 2017(O&M)

Date of Decision: July 7 , 2017.

Iqbal Singh PETITIONER (s)

Versus

Veer Pal Kaur RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. KBS Mann, Advocate
for the petitioner.

LISA GILL, J.

The petitioner is aggrieved of order dated 04.01.2013 passed by the learned Judicial Magistrate First Class, Malout as well as order dated 15.05.2017 passed by the learned Sessions Judge, Sri Muktsar Sahib.

The respondent i.e., the petitioner's wife alongwith their minor son filed an application under Section 125 Cr.P.C. claiming maintenance from the petitioner. The petitioner appeared before the learned Magistrate and filed his reply. The respondent-wife was examined in-chief and her cross-examination was deferred on the request of learned for the present petitioner (respondent in the petition under Section 125 Cr.P.C.). However, the petitioner thereafter chose not to associate himself with the proceedings. Consequently, the petitioner was proceeded against ex parte by the learned trial court.

The learned Judicial Magistrate First Class, Malout directed the petitioner to pay maintenance to the tune of ₹2,000/- to the respondent-wife. The child of the parties was admittedly living with the petitioner. Thereafter, the respondent-wife preferred a revision petition against order dated 04.01.2013. The learned Revisional Court vide order dated 30.08.2013 allowed the revision petition and enhanced the amount of maintenance from ₹2,000/- per month to ₹5,000/- per month.

The petitioner approached this Court by way of CRM No.M-36236 of 2016 challenging order dated 30.08.2013 primarily on the ground that his service was dispensed with by the revisional court only on the ground that he was proceeded against ex parte before the learned trial court. This Court vide order 14.03.2017 set aside order dated 30.08.2013 while directing the learned revisional court to decide the matter afresh. Learned Sessions Judge, Sri Muktsar Sahib vide impugned order dated 15.05.2017 enhanced the maintenance amount to ₹6,000/- per month. The petitioner being aggrieved of the enhancement of the maintenance amount has filed the present revision petition.

It is vehemently argued that the petitioner is maintaining his son who is studying at Chandigarh. The petitioner, it is stated though an owner of 31 Kanals of land, has to repay a loan of ₹10,00,000/-. Therefore, it is not feasible or possible for the petitioner to pay maintenance to the tune of ₹6,000/- per month to the respondent-wife. The aforesaid extra burden on the petitioner shall affect the future career of his son. It is further urged that the so-called medical bills relied upon by the respondent are not genuine. Therefore, the said amount be reduced.

It is to be noted that in the application preferred by the respondent-wife, it is mentioned that she was ousted from her matrimonial home due to insufficient dowry brought by her. She was subjected to taunts and harassment at the hands of the petitioner. She was rehabilitated in the matrimonial home after the intervention of various Panchayats. Parents of the respondent wife gave sufficient dowry but the in-laws still not being satisfied, the respondent-wife was thrown out of her matrimonial home by the petitioner. It is further stated that she was living with her parents without any source of income whereas, the petitioner owned 31 Kanals of land. He has cows, buffaloes and is earning ₹50,000/- per month from the dairy business as also an amount of ₹3,00,000/- from agricultural produce. The petitioner is stated to be the owner of fruit orchards. The petitioner is averred to be an owner of an Esteem car, telephone, mobile etc. therefore, having an annual income of at least ₹8,00,000/-.

The present petitioner in his reply denied the averments while stating that his wife deserted him without any reason. The petition under Section 125 Cr.P.C. was filed only as a counter-blast to a petition under Section 13 of the Hindu Marriage Act filed by him. It is however admitted by the petitioner in his reply that his grand-father owns six and half acres of land. As noted above, the petitioner was thereafter proceeded against ex parte. He chose not to be associated with the proceedings in question.

The learned Revisional Court has rightly held the respondent-wife to be entitled to maintenance @ ₹6,000/- per month. It is not in dispute that the petitioner is an owner of 31 Kanals of land. Furthermore, in the reply filed by him it is admitted that his grand-father is owner of six and half acres of land. It

is observed by the learned Revisional Court that as per the Jamabandi (Ex.A1), the land in question is Nehri. It is to be noted that the present petitioner has not led any evidence on record to show that his income is less than the one assessed by the learned courts below or that the medical bills relied upon by the respondent-wife are not genuine. Therefore, it does not lie with the petitioner to urge at this stage that his income does not justify the amount of maintenance assessed or that the medical bills in question are not genuine. The fact that the petitioner is maintaining his son and has to repay a loan he has incurred, cannot be a ground to decrease the maintenance assessed by the learned courts.

Consequently, finding no illegality or infirmity in the impugned orders dated 04.01.2013 and 15.05.2017 passed by the learned Judicial Magistrate First Class, Malout and the learned Sessions Judge, Sri Muktsar Sahib, respectively, this petition is dismissed.

July 7, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No