

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

**CRM-M-23683-2017
Date of decision-05.12.2017**

Sanjay

...Petitioner

Vs.

Bantu

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sandeep Saini, Advocate for
Mr. Sumit Gupta, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

The present petition has been filed for quashing of the impugned order dated 10.05.2016 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Hodal whereby the petitioner/husband had been directed to pay a sum of ₹6,000/-per month as interim maintenance to the respondent for herself and her minor children in the proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and judgment/order dated 09.03.2017 (Annexure P-5) passed by learned Addl.Sessions Judge, Palwal whereby the appeal filed by the petitioner has also been dismissed.

It is asserted that the respondent/wife is not entitled to any maintenance as she is unchaste and is earning by unfair conduct and has also been securing help from three daughters who are financially independent. The respondent along with one Smt. Pawan are into flesh trade. Moreover, the petitioner is not in a position to pay a sum of ₹6,000/- per month as he earns a paltry sum of ₹3,000/- per month. It is claimed that respondent/wife has herself deserted and neglected the petitioner. The impugned orders have

been passed without considering these factual aspects of the matter.

I have heard learned counsel appearing on behalf of the petitioner and have gone through the case file.

The marriage was solemnized on 08.07.1992 as per Hindu rites and rituals. Out of the wedlock five children were born. Allegedly, during her stay at the matrimonial home, the respondent was maltreated and harassed by the petitioner and she was turned out from the matrimonial home. The respondent/wife claimed that the petitioner owns agricultural land in village Bighawali, Tehsil Hathin, District Palwal.

It is also asserted that the petitioner/husband has been in illicit relationship with her sister-in-law, wife of his brother, however, there is no evidence in this regard at this stage. The allegations of the petitioner-husband that the respondent/wife is living in adultery or that she and one Smt. Pawan are into flesh trade have not been substantiated by the petitioner/husband at this stage.

Learned Appellate Court has rightly observed that the nature of allegations levelled by the husband assassinating her character without any substantial evidence, is itself an act of domestic violence. Vide order dated 06.11.2017, this Court had directed learned counsel for the petitioner to place on record evidence in support of his contention that the respondent along with Smt. Pawan are running some brothel or some extramarital affairs. However, the learned counsel failed to comply with the specific directions passed by this Court. At this stage, it cannot be said that respondent-wife is living separately from the petitioner without any

sufficient cause. He is legally and morally bound to maintain his wife and children.

Even a daily wager in the State of Haryana can easily earn an amount of ₹300/- per day as minimum wages.

In the circumstances, this Court feels that the amount of ₹6,000/- per month by no stretch of imagination can be said to be on higher side for maintenance of the wife and minor children especially in the present scenario of high rise in the cost of living.

In that view of the matter, the Courts below rightly fixed the interim maintenance in favour of respondents. There is no illegality or perversity in the impugned orders. Thus, present petition is accordingly dismissed.

05.12.2017

vanita

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No