

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25835 of 2017 (O&M)

Date of decision: 08.12.2017

Wahid Hassan

...Petitioner

Versus

Seema Begum and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Krishan Singh, Advocate
for the petitioner.

Jitendra Chauhan, J. (Oral)

CRM-39421-2017

Allowed as prayed for, subject to all just exceptions.

Annexure P-5 is taken on record.

Main Case

The petitioner/husband has filed the present petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') against the impugned order dated 30.01.2015, passed by Chief Judicial Magistrate, Yamuna Nagar, whereby the application under Section 125 Cr.P.C., filed by the respondents was partly allowed qua respondent Nos. 2 and 3 and the order dated 02.06.2017, passed by learned Sessions Judge, Yamuna Nagar, whereby the revision petition filed by the respondents was allowed and all the three respondents were held entitled to maintenance @ Rs.2500/- p.m. each from the date of filing the petition.

It is contended that the impugned orders dated 30.01.2015 and 02.06.2017, passed by the Courts below have resulted into causing grave injustice to the petitioner and the factum of decree of divorce already granted by the Court has been ignored. The father of the petitioner has been bearing all the expenses of the respondents and they have been residing separately in the house provided by the father of the petitioner. The petitioner has already been disinherited by his father from the house. The respondent No.1/wife is working as commission agent in PACL Pvt. Ltd and is earning handsome income of Rs.2,29,470/- p.a. as is evident from copy of income tax return (Annexure P-5) for the assessment year 2015-16. . The petitioner is doing labour work and earning his livelihood with great difficulty, therefore, the order granting maintenance to the respondents is not justifiable.

Heard.

Though, it is not in dispute that respondent No.1/wife is working as commission agent but it cannot be said that she is having fixed or regular income. The copy of income tax return of respondent No.1 for the assessment year 2011-12 shows her annual income to be Rs.1,14,900/- whereas the copy of income tax return for the assessment year 2012-13 depicts that her total gross income was Rs.1,33,650/- p.a. Copy of income tax return for the assessment year 2013-14 has not been placed on record by the petitioner for the reasons best known to him. Moreover, these income tax returns (Annexure P-5) were never produced by the petitioner before the Courts below at the time of adducing

evidence. These documents have seen the light of the day before this Court. No plausible explanation is forthcoming as to what prevented the petitioner from producing these documents in evidence. In the circumstances, these documents cannot be taken into consideration at this stage to hold that respondent No.1/wife is earning a handsome income. It is well settled that a divorced wife is entitled to maintenance from her ex-husband till she re-marries.

Though, the actual income of the petitioner has not come on record, however, his plea that he is doing labour work does not seem to be fair as he has not approached the Court with clean hands. As per income tax return for the year 2012-13, the income of the petitioner has been shown to be Rs. 1,78,200/- per annum, meaning thereby, he is earning Rs.15,000/- per month and it can be presumed that at present, he is earning more than Rs.15,000/-. Therefore, in the given facts and circumstances of the case, this Court feels that the amount as determined by the Appellate Court is not on the higher side, keeping in view the cost of living these days and the same cannot be termed to be excessive, perverse or grossly unjust in the given set of circumstances. The petitioner is duty bound to maintain the respondents. There is no illegality, infirmity or perversity in the impugned order dated 02.06.2017, which is hereby affirmed.

Dismissed.

08.12.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No