

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

Crl. Misc. M-28923 of 2017 (O&M)
Date of Decision: September 08, 2017

Kali Dass Sharma

...Petitioner

Versus

Kanta Rani

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. B.S. Bali, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Section 482 Cr.P.C. for quashing the impugned judgment dated 09.06.2017 passed by learned Sessions Judge, Yamuna Nagar and order dated 06.05.2017 passed by Judicial Magistrate Ist Class, Jagadhari, vide which the interim maintenance of Rs.7000/- per month has been awarded to the respondent.

2. Counsel for the petitioner contends that respondent left the house of the petitioner 40 years back and now has filed the petition under Section 125 Cr.P.C. for grant of maintenance on false grounds. It is argued that both the courts below have failed to appreciate the fact that the respondent herself left the company of the petitioner 40 years back without any sufficient reason and therefore, she is not entitled to maintenance.

3. I have heard counsel for the petitioner and perused the record

of the case.

4. Vide order dated 06.05.2017, the Judicial Magistrate Ist Class, Jagadhari, directed the petitioner herein to pay a sum of Rs.7000/- as interim maintenance to the respondent. Being aggrieved, the petitioner assailed the said order in revision, which came to be dismissed by learned Sessions Judge, Yamuna Nagar by the impugned judgment dated 09.06.2017.

5. The argument raised by counsel for the petitioner that the respondent herself left the company of the petitioner, as such, she is not entitled to any maintenance does not hold good. In the instant case, relationship of husband and wife is not disputed between the parties. It is also not in dispute that the petitioner herein is getting pension of around Rs.27,000/- per month. It is well settled that a legally wedded wife is entitled to claim maintenance from her husband, if she is incapable of maintaining herself. Merely because both the parties are residing separately since long, it cannot take away the legal right of the respondent to claim maintenance and the petitioner herein is legally bound to maintain her. This court does not find any infirmity in the impugned orders so passed.

6. In view of the above, the petition in hand stands dismissed being devoid of any merit.

7. Anything observed hereinabove shall have no bearing on the merits of the case.

September 08, 2017

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No