

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

**Crl. Misc. No. M-3055 of 2017
Date of Decision : July 21,2017**

Raj Pal Petitioner

VERSUS

Preeti and another Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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Present: Mr. Abhinav Gupta, Advocate
for the petitioner.

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LISA GILL, J. (Oral)

The petitioner is aggrieved of order dated 20.01.2016 passed by the learned Judicial Magistrate 1st Class, Jalandhar, whereby the petitioner was directed to pay interim maintenance to the tune of ₹12,000/- per month to respondent No.2 i.e. his minor daughter. Petitioner further seeks quashing of order dated 4.6.2016 passed by the learned Sessions Judge, Jalandhar, whereby the petitioner's revision petition against order dated 20.1.2016 has been dismissed.

The respondents i.e. wife and minor daughter of the petitioner

filed a petition under Section 125 Cr.P.C. claiming maintenance from the petitioner. As per the averments in the said petition marriage was solemnized between the petitioner and respondent No.1 on 10.10.1997. Relations between the parties remained normal for about a year but thereafter petitioner's behavior deteriorated. Demand of dowry was raised by the petitioner and his family members. Respondent No.2, daughter of the petitioner and respondent No.1, was born on 2.7.1999. Respondent No.1 suffered miscarriage in the year 2000. Allegations of illicit relations have been raised against the petitioner by the respondent-wife. It is further averred that the petitioner stopped residing with the respondents and started living with another lady. It is stated that despite a legal and moral obligation on the part of petitioner-husband to maintain the respondents, he failed to pay even a single penny to them as maintenance. It is further stated that a joint housing loan of ₹ 15 lakhs was secured by the respondent-wife and the petitioner, but the petitioner stopped paying the loan instalment of ₹ 17,000/- per month. The instalment is being paid by the respondent-wife along with the instalment of a car loan to the tune of ₹ 5,000/- per month.

The petitioner is stated to be working as a Multi-purpose Health Worker Supervisor with the Health Department of State of Punjab, drawing a salary of ₹ 40,000/- per month. Respondent-wife is stated to be earning a salary of ₹ 52,108/- per month while working as a Lab Technician with the Health Department of State of Punjab. It is however averred that she has to discharge numerous responsibilities, including the payment of the instalments of the house and car loan. Their minor daughter residing with the respondent-wife is stated to be a student of 10+1 (Medical Stream). The child is stated to be studying in Cambridge International School,

Jalandhar, with a tuition fee of ₹ 5,000/- per month. ₹ 1200/- per month is paid towards her transportation charges. ₹ 72,000/- per annum is deposited as coaching fees for the minor daughter. Another sum of ₹ 8,000/- per month is paid for preparation of the PMT competition.

The learned trial Court vide impugned order dated 20.1.2016, while holding the respondent-wife not entitled to any maintenance awarded a sum of ₹ 12,000/- per month from the date of order to be paid to the minor daughter.

The petitioner as well as the respondents filed revision petitions against order dated 20.01.2016. The learned Sessions Judge, Jalandhar, vide impugned order dated 04.06.2016 dismissed both the said revision petitions. The present petition has been filed on 25.01.2017 by the petitioner.

Learned counsel for the petitioner vehemently argues that the respondent-wife is earning much more than the petitioner. There is a certain property from which she is getting rental income as well. Moreover, it is urged that the respondents are residing separately from the petitioner out of their own accord. The petitioner, it is stated, has paid more than half of the amount of housing loan secured by the petitioner and his wife. It is contended that the petition under Section 125 Cr.P.C. is a counter-blast to the divorce petition filed by the petitioner in May 2015. Moreover, the petitioner, it is submitted, is depositing a sum of ₹ 4,000/- in favour of the respondent-wife in the proceedings under the Hindu Marriage Act, 1955. Learned counsel for the petitioner vehemently argues that in the facts and circumstances as narrated above the petitioner has been wrongly saddled with the responsibility of paying interim maintenance to the tune of ₹ 12,000/- per month to the minor daughter.

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

Marriage between the parties is not disputed. Neither is there any dispute regarding respondent No.2 being the daughter of the petitioner and respondent No.1. The learned Courts have not awarded any maintenance to be paid to the respondent-wife on the ground that she is gainfully employed. A sum of ₹ 12,000/- has been directed to be paid as maintenance for the minor daughter. It is not disputed that at the time of filing of the petition under Section 125 Cr.P.C. petitioner's minor daughter was a student of 10+1(Medical Stream) with the specified amount being spent on her tuition fees and for preparation of the entrance examinations. It is further not denied that the instalments in respect to the housing loan are now being paid by the respondent-wife. Expenses are necessarily incurred for the educational, academic and other needs of the child who is preparing for studies in the medical stream. The argument that the respondent-wife is earning more than the petitioner therefore, he should be absolved of his responsibility of maintaining his child is indeed fallacious. Similarly, filing of the petition for divorce or payment of ₹4,000/- per month to the respondent-wife in the divorce proceedings can not in any manner impinge upon the right of the minor daughter for maintenance. Reference to the written statement filed by the respondent-wife in the proceedings under Section 13 of the Hindu Marriage Act, 1955 (para 4d) cannot be of any avail to the petitioner. There is nothing on record to show that any rental income is being received by the respondents. The petitioner cannot be absolved of maintaining his minor daughter on the grounds sought to be urged. It is indeed the legal and moral duty of the petitioner to share the responsibility

of bringing up his daughter.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned orders whereby ₹ 12,000/- per month has been assessed as the interim maintenance. Needless to observe that if on appreciation of evidence the learned trial Court arrives at any other conclusion the amount paid can always be adjusted. Consequently, finding no merit in this petition the same is dismissed.

21.07.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No