

CRM-M- 41465 of 2014

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In the High Court of Punjab and Haryana at Chandigarh

CRM-M- 41465 of 2014

Date of Decision:26.5.2017

Mamta Khunger and another

---Petitioners

vs.

Jagdip Arora @ Ashu

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Naveen Sharma, Advocate
for the petitioners

Mr. Abhishek Sharma, Advocate
for the respondent

Rekha Mittal, J.

The petitioners have approached this Court for modification of orders dated 28.1.2014 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Ludhiana and dated 9.9.2014 (Annexure P-4) by the Additional Sessions Judge, Ludhiana whereby interim maintenance has been awarded at the rate of Rs. 1500/- per month to petitioner No. 1 and 1,000/- per month to petitioner No. 2 by the trial court and the order passed by the trial court has been affirmed by the revisional court.

Affidavit dated 25/26.5.2017 of Jagdip Arora @ Ashu, filed in

the court is taken on record.

Counsel for the petitioners has submitted that marriage of petitioner No. 1 and respondent was solemnized on 9.9.2008 and out of the wedlock, Manin Arora petitioner No. 2 was born on 6.9.2009 and the child is residing with the mother. It is further submitted that interim maintenance assessed by the courts below is a meager amount which cannot suffice for daily needs of the petitioners what to talk of providing for education of the child, clothing, housing much less comforts and luxuries. It is further submitted that the respondent being the husband and father has an obligation to provide adequate maintenance to the petitioners. Further argued that the photographs (Annexure P-3) would prove that the respondent is running a shop like a general store in a busy market of Ludhiana, therefore, is earning much more than what is projected by him in his reply before the court below as well as affidavit dated 25/26.5.2017 filed before this Court by claiming that he is working in a factory of fabrication works and earning Rs. 5000/- per month as a salary.

Counsel for the respondent, on the contrary, has supported the impugned orders with the submission that as the respondent has no other source of income except earning a meager salary of Rs. 5,000/- per month from L.G. Fabricator, no justification for interference in the orders impugned is warranted.

I have heard counsel for the parties and perused the paper book.

Before adverting to the submissions made by counsel for the parties, it is appropriate to note that provisions of Section 125 of the Code of Criminal Procedure (in short "Cr.P.C.") are a benevolent social

legislation enacted with a clear intent to provide quick relief to a destitute woman, neglected Children and parents. Equally settled is that a husband has an obligation to provide adequate maintenance to his wife and so also the father to his children who are not able to maintain themselves. In the case at hand, the son born out of the wedlock is about eight years old and is studying in Vardhman International Public School at Ludhiana. Counsel for the respondent has not disputed correctness of photographs (Annexure P-3) showing the respondent doing business in a shop of Karyana/miscellaneous goods. However, he has submitted that the said shop belongs to his father and occasional presence of the respondent on the shop is not an evidence of his either running the shop or getting any income therefrom. It is not the plea of the respondent that he is not residing with his family namely his parents. It is difficult to believe that if a family is running a karyana or general store type business in Ludhiana, a son of the family would be working at a meager salary of Rs. 5,000/- per month. At the same time, once the petitioner had decided to marry and give birth to a child, he is under a legal, moral and social obligation to provide adequate maintenance to his wife and child.

Taking a cumulative view of the facts and circumstances on record, interests of justice would be served if the petitioners are allowed interim maintenance at the rate Rs. 2,500/- per month for petitioner No. 1 and 2000/- per month for petitioner No. 2 from the date of filing of application under Section 125 Cr.P.C.

For the foregoing reasons, the petition stands disposed of with modification in the aforesaid terms. However, nothing stated hereinbefore

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shall cause prejudice to either of the parties at the time of final disposal of the case on merits.

(Rekha Mittal)
Judge

26.5.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No