

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

Crl. Misc. M-44438 of 2017 (O&M)
Date of Decision: November 24, 2017

Jaswinder Singh

...Petitioner

Versus

Jaspreet Kaur and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H.S. Jalal, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Section 482 Cr.P.C. for setting aside the order dated 22.02.2017 passed by JMIC Bathinda and order dated 12.05.2017 passed by Sessions Judge, Bathinda, allowing interim maintenance under Section 125 Cr.P.C. to the respondents.

In brief, the facts are that the petitioner solemnized a *Karewa* marriage with respondent No.1 on 12.06.2005 and out of this marriage, a male child i.e. respondent No.2 was born on 20.04.2011. In fact, respondent No.1 was married to Gurwinder Singh, who died on 03.05.2004. A dispute arose between the parties and Jaspreet Kaur along with her minor son were turned out of her matrimonial home, which led to filing of the petition under Section 125 Cr.P.C. against the petitioner herein seeking maintenance @ Rs.15,000/- per month. Respondent No.1 alleged that she had entered into *Karewa* marriage with the petitioner in a ceremony, which took place in the

Gurudwara Bangla Sahib and as such, being legally wedded wife, she and the minor child would be entitled to maintenance under Section 125 Cr.P.C. The matter was contested and the petitioner herein submitted that no *Karewa* marriage has taken place between him and respondent No.1 and as such, she and the minor child would not be entitled to maintenance. Along with the petition under Section 125 Cr.P.C., an application for interim maintenance was also filed, which came to be allowed by Judicial Magistrate Ist Class, Bathinda on 22.02.2017. This order was challenged in revision before Sessions Judge, Bathinda, which was dismissed. Being aggrieved against the said order, the instant petition has been filed.

Learned counsel appearing on behalf of the petitioner contends that there was no regular marriage between the petitioner and respondent No.1 and therefore, she and the minor child would not be entitled to maintenance under Section 125 Cr.P.c. It is also alleged that respondent No.1 has adequate means to support herself.

I have heard learned counsel for the petitioner, apart from perusing the record and the impugned orders dated 22.02.2017 and 12.05.2017.

The proceedings under Section 125 of the Code of Criminal Procedure are summary in nature and it has been enacted to ensure that a wife, minor children and old parents are not left destitute and have been provided to give monetary relief to a person, so that he/she may not starve. In the proceedings under Section 125 Cr.P.C., a strict proof of marriage is not required at the stage of granting the interim maintenance. Both the Courts below noted the plea of the petitioner herein that no *Karewa*

marriage had ever taken place between him and respondent No.1, only to be discarded. The Courts below took note of the fact that respondent No.1 had placed on record photographs, which would show that her *Karewa* marriage had been solemnized with the petitioner herein and also produced on record photocopy of the birth certificate of respondent No.2 in which name of the father was reflected as Jaswinder Singh i.e. the petitioner herein. From a perusal of the photographs and the birth certificate, the Courts below came to the conclusion that prima facie there was enough evidence on the record to establish the relationship between the parties. In the case of **Dwarika Prasad Satpathy vs. Bidyut Prava Dixit, (1999) 7 SC 675**, it has been held that in proceedings under Section 125 Cr.P.C., strict proof of performance of essential rites of marriage are not required and the Magistrate has to be prima facie satisfied with regard to the performance of marriage between the parties. Taking the income of the petitioner herein to be not less than Rs.10,000/- per month being able bodied man, the interim maintenance was allowed at Rs.1500/- per month to each of the respondents herein, which maintenance is reasonable and not on the higher side.

In view of the above discussion, this court does not find any merit in the instant petition and the same is hereby dismissed.

November 24, 2017

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No