

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

251

CRM-M-9391 of 2016

Date of Decision: 04.12.2017

Ajay Kumar

..... Petitioner

Versus

Ruma

..... Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.J.P.Sharma, Advocate for the petitioner.

Mr.Devender Arya, Advocate for the respondent.

JITENDRA CHAUHAN J. (Oral)

This is a petition under Section 482 Cr.P.C. for setting aside the impugned judgment dated 11.1.2016 passed by learned Addl. Sessions Judge, Narnaul, vide which the order dated 04.12.2015 passed by learned Chief Judicial Magistrate, Narnaul was set aside and the respondent was granted a sum of ₹3,000/- per month as interim maintenance.

It is contended by learned counsel for the petitioner-husband that the impugned judgment dated 11.1.2016, passed by learned Addl. Sessions Judge, Narnaul, is against the settled position of law that if wife willfully deserts, she is not entitled to grant of maintenance. It is further contended that it has been fully proved on record by enquiry report dated 29.02.2016 conducted by Deputy Superintendent of Police, Narnaul, Annexure P-3, that the petitioner did not maltreat the respondent. It is the respondent, who has indulged in illicit relationship with one Parvesh son of Pawan Kumar. The children born out of the wedlock are with the petitioner. It is the respondent-wife, who has left the company of the petitioner and has joined the company of aforesaid Parvesh.

On the other hand, learned counsel for the respondent supports the judgment dated 11.1.2016 passed by learned Addl. Sessions Judge, Narnaul.

Heard.

A perusal of the impugned order dated 04.12.2015 passed by learned Chief Judicial Magistrate, Narnaul shows that the Court has declined the grant of interim maintenance to the respondent-wife on the basis of report dated 29.02.2016, whereby Deputy Superintendent of Police, Narnaul, had held that the respondent-wife has illicit relations with Parvesh. She has left the company of the petitioner without any sufficient cause. The minor children/twins, aged 10 years, are residing with the petitioner. It has also come on record that on a petition filed under Section 13 of the Hindu Marriage Act, a decree of divorce has also been passed between the parties.

The enquiry report prepared by the Deputy Superintendent of Police holding that the respondent had been living in adultery in the absence of supporting evidence cannot be taken a gospel truth and deserved to be ignored.

This Court feels that impugned order has been passed by ignoring the relevant facts and evidence on record. Consequently, the present petition is allowed and the impugned judgment passed by learned Addl. Sessions Judge is set aside.

04.12.2017

P.Seth

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No