

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

Criminal Revision No. 1077 of 2017 (O&M)

Date of decision : April 25, 2017

Malook Singh

.....Petitioner

Versus

Harpeet Kaur and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jagjit Gill, Advocate
for the petitioner.

LISA GILL, J.

Challenge in this revision petition is to order dated 03.01.2017 passed by the learned Additional Sessions Judge, Sirsa whereby the appeal preferred by the petitioner against order dated 30.01.2015 passed by the learned Judicial Magistrate First Class, Sirsa has been dismissed. The petitioner is aggrieved of the maintenance assessed as ₹1600/- per month to be paid by him to his minor child.

Brief facts of the case are that the petitioner and respondent No. 1 were married on 24.11.2007. A child was born out of this marriage on 13.12.2008. There was matrimonial discord between the parties. A petition under Sections 12, 17, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 was filed by respondent No. 1. It was averred that she was harassed and humiliated by the petitioner and his family members while demanding dowry. She was turned out of the

matrimonial home on a number of occasions after being subjected to physical abuse. Respondent – wife was turned out yet again when she was pregnant. Their child was born on 13.12.2008. She has ever since been residing with her parents. The petitioner-husband and his family members refused to rehabilitate her alongwith the minor child. Amongst various reliefs claimed by her, she claimed maintenance for herself as well as the minor child. It is averred that the petitioner-husband is a Government employee, posted as a JBT teacher in District Mewat earning more than ₹30,000/- per month as salary. However, he was under suspension. The petitioner is also averred to be an owner of property and a residential house in village Rori, Tehsil and District Sirsa.

The averments in the petition were denied by the petitioner-husband while submitting that the respondent-wife was a hot tempered lady and had left the matrimonial home without any reasonable cause. Furthermore, respondent No. 1 is herself a JBT teacher earning a handsome amount. Therefore, there is no question of grant of maintenance for her or the minor child.

The evidence was led by both the parties. The learned trial Court after considering the evidence on record and the facts and circumstances of the case concluded that no case was made out for grant of maintenance to the respondent-wife as she herself was earning being employed as a JBT teacher. However, a sum of ₹1600/- per month was assessed as maintenance to be deposited by the petitioner for the upbringing of the minor child. Both the parties preferred appeals against the said decision dated 30.01.2015, which were decided by a common order dated 03.01.2017 by the learned Additional Sessions Judge, Sirsa. Both the

appeals were dismissed and order dated 30.01.2015 was maintained.

Learned counsel for the petitioner vehemently argues that respondent No. 1 (wife) is admittedly working as a JBT teacher. She is earning a salary, which is much more than what is received by the petitioner. The petitioner is under suspension. It is difficulty for him to take care of himself and his own parents in this situation. Therefore, impugned orders dated 30.01.2015 and 03.01.2017 be set aside to the extent of assessment of ₹1600/- per month to be deposited for the maintenance of upbringing of the minor child.

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

Marriage of the petitioner and respondent No. 1 is not in dispute. It is further not denied that a child was born out of this wedlock on 13.12.2008. The child is being maintained by the respondent-wife. Learned counsel for the petitioner is unable to deny that though the petitioner is under suspension, he is nevertheless getting 75% of his salary as subsistence allowance. This fact has been specifically taken note of by the learned Additional Sessions Judge, Sirsa while observing that the petitioner is getting a sum of ₹24,000/- per month as subsistence allowance. In these circumstances, the petitioner cannot be absolved of his duty to contribute for the maintenance and upbringing of the minor child. School fee receipts Exs. P13 and P14 have been proved by the respondent-wife. It is undeniable that a sum of ₹1600/- per month as assessed by the learned courts below is not excessive in any manner. The argument on behalf of the petitioner that respondent No. 1 is earning much more than him, therefore, the impugned orders be set aside, is clearly untenable. It is incumbent upon the petitioner

being the father of the child to contribute for maintenance and upbringing of the child. Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned orders dated 30.01.2015 and 03.01.2017 to the extent of the assessment of ₹1600/- per month to be paid for the maintenance of the minor child.

Consequently, this revision petition is dismissed.

April 25, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No