

In the High Court of Punjab and Haryana at Chandigarh

CRR(f)- 195 of 2017(O&M)
Date of Decision: 11.5.2017

Joginder Pal

---Petitioner

versus

Renu Bala and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Ravinder Kaur Manaise, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition directs challenge against order dated 19.1.2017 passed by the District Judge, Pathankot whereby respondents have been awarded maintenance at the rate of Rs. 5000/- and 3000/- per month each till 31.12.2016 and at the rate of Rs. 6000/- and 4000/- per month to each of the respondents from 1.1.2017 onwards under Section 125 of the Code of Criminal Procedure (in short "Cr.P.C.").

Counsel for the petitioner has submitted that respondent No. 1 is the divorced wife of the petitioner. After the decree of divorce was passed in favour of the petitioner, he performed marriage with one Rajni on 9.8.2015 and there is a child out of the second wedlock. It is further submitted that taking into consideration salary of the petitioner and his liability to maintain the respondents, his second wife and a child from the second wedlock, maintenance assessed by the court below is liable to be

reduced. Further submitted that the court awarded interim maintenance at the rate of Rs. 8000/- per month and maintenance assessed with effect from 1.1.2017 may be reduced to Rs. 8000/- per month.

I have heard counsel for the petitioner, perused the paper book particularly the order impugned.

Perusal of para 11 of the impugned order would make it evident that decree of divorce passed in favour of the petitioner has not attained finality as FAO-M- 377 of 2015 filed by the wife is pending and in those proceedings, the respondent is restrained from performing second marriage. To be fair, counsel for the petitioner would inform that the petitioner performed second marriage after expiry of period of limitation and the appeal was filed after delay. However, it remains a fact that the petitioner was aware that he has the liability to maintain his child and the wife till she performs marriage. Maintenance assessed may not be sufficient to meet daily requirements of the respondents what to talk of providing for education of the child, comforts and luxuries for the respondents. Once the petitioner knew fully well his income and liability towards the respondents but still decided to perform second marriage and have a family, he cannot escape his liability to pay adequate maintenance to his wife and the child of first marriage. Examined from another angle, the respondents are not expected to file application for enhancement at a short interval but salary of the petitioner would increase every year.

As an upshot of the aforesaid discussion, I do not find any error much less illegality in the impugned order warranting intervention.

Dismissed.

(Rekha Mittal)
Judge

11.5.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No