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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision-21.11.2017

1. CRR(F)-344-2017

Sukhwinder Kaur

...Petitioner

Vs.

Gurbakhshish Singh

...Respondent

2. CRR(F)-444-2017 (O&M)

Gurbakhshish Singh

...Petitioner

Vs.

Sukhwinder Kaur

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. A.S. Barnala, Advocate for the petitioner.
(In CRR(F)-344-2017).

JITENDRA CHAUHAN, J. (Oral)

This judgment shall dispose of aforementioned two revision petitions filed for setting aside the impugned order dated 27.07.2017 passed by District Judge, (Family Court) Barnala whereby in a petition under Section 125 of the Code of Criminal Procedure, the respondent/husband has been directed to pay a sum of Rs.4,000/-per month as maintenance to the wife from the date of filing of the main application i.e.05.08.2015 till the date of order and @ ₹ 6,000/- per month from the date of order till entitlement and the order dated 25.07.2017 whereby the learned trial Court has closed the evidence of the petitioner. For the disposal of the matter, the facts are being extracted from CRR(F)444-2017 filed on behalf of husband- Gurbakhshish Singh.

It is asserted that the petitioner is a pensioner and is getting ₹ 15,000/- as monthly pension and respondent/wife does not deserve any maintenance as she has been living in adultery with one Jasvir Singh.

Notice of motion.

At this stage, Mr. Amit Kumar Walia, Advocate causes representation on behalf of respondent-husband. Respondent/husband has also filed separate petition bearing No. CRR(F)-444-2017 impugning the same order dated 27.07.2017 passed by learned District Judge. Respondent/husband has also impugned the order dated 25.07.2017 wherein the learned trial Court has closed evidence of the respondent/husband.

Learned counsel for the respondent/wife also refers to jamabandis Exhibit- A1 to A2 for the year 2012-13 in CRR(F)-344-2017 to contend that beyond the amount of pension, the petitioner has also been earning a sum of ₹ 3,50,000/- per annum. The allegations of adultery have been levelled only to frustrate the respondent/wife's right of maintenance that has accrued in favour of the wife as she has been thrown out of the matrimonial home.

At this stage, there is no evidence with regard to adultery and the factum of any land allegedly owned by the husband has also not been fully proved.

It is contended by learned counsel for respondent/husband that trial Court erred in awarding maintenance amount to the respondent without appreciating the fact and circumstances that the petitioner is an ex-serviceman and getting a pension of ₹ 15,000/- per month. He further

contends that respondent is living in adultery with one Jasvir Singh and not entitled to get maintenance.

I have heard learned counsel for the parties and have gone through the case file.

The marriage was solemnized on 04.12.2005 as per Sikh rites. Out of the wedlock one male child was born. Presently, the child is residing with the husband. Allegedly, on 07.01.2015, due to demands of dowry and harassment, wife was constrained to leave the matrimonial home and has been residing at her parental home. The wife claimed that the petitioner is getting pension of ₹ 15,000/-per month and he owns 7 acres of agricultural land. At this stage, it cannot be said that the wife is living separately from the petitioner without any sufficient cause. The parties are yet to lead evidence with regard to the allegations of the husband that the wife is living in adultery with one Jasvir Singh. He is legally and morally bound to maintain his wife.

Considering the fact that the child is being maintained by the husband and keeping in view of the composition of the family, the amount awarded to the wife cannot be said to be inadequate particularly when the factum of ownership of land is yet to be determined.

In the circumstances, this Court feels that the amount of ₹ 6,000/- per month by no stretch of imagination can be said to be inadequate or on higher side for maintenance of the wife especially in the present scenario of high rise in the cost of living.

In that view of the matter, the Court below rightly fixed the

interim maintenance in favour of the wife. There is no illegality or perversity in the impugned orders. Thus, present revision petitions are accordingly dismissed.

21.11.2017

vanita/atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No