

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 18457 of 2016 (O&M)

Date of decision : 27.8.2018

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Sanjeev Kumar

.....Petitioner

vs.

Suman

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. D.K. Prajapati, Advocate
for the petitioner.

Mr. Rahul Vats, Advocate
for the respondent.

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H. S. Madaan, J.

Petitioner Suman, estranged wife of Sanjeev Kumar had filed a petition under Sections 12, 18, 19, 20, 21 and 22 of Protection of Women from Domestic Violence Act, 2005 (hereinafter to be referred to as 'the Domestic Violence Act'), against her husband Sanjeev Kumar. In those proceedings, interim maintenance @ Rs.10,000/- per month was awarded payable by respondent Sanjeev Kumar from the date of application i.e. 8.8.2013.

Feeling aggrieved, Sanjeev Kumar had filed an appeal against the said order, which was however, dismissed by the

Additional Sessions Judge, Sirsa, vide order dated 2.4.2016, as such Sanjeev Kumar has knocked at the door of this Court by way of filing the present petition under Section 482 Cr.P.C., seeking quashing of the order dated 4.6.2014, passed by Sub Divisional Judicial Magistrate, Dabwali, granting interim maintenance to his wife Suman, as well as order dated 2.4.2016 passed by Additional Sessions Judge, Sirsa, dismissing his appeal against the said order.

Notice of the petition was given to Suman, who is respondent in this petition, who put in appearance.

I have heard learned counsel for the parties, besides going through the record.

In this case, relationship of husband and wife between the parties is not disputed, as is the fact that the couple has a daughter namely, Vanshika, presently residing with her mother. This is also not in much dispute that Suman is working as a JBT Teacher at Government Primary School, Billah, District Panchkula, earning Rs.35,000/- per month. Whereas Sanjeev Kumar is also working as a JBT Teacher at village Maujgarh. Though Suman being in employment, getting sufficient salary can take care of her needs and her husband Sanjeev Kumar is not liable to pay any maintenance to her, but his liability does exist towards Baby Vanshika, daughter of the parties. Such girl child, who is growing up and is a student, money is required for her bringing up, education and meeting other needs. Suman being mother of the child is bringing her up. Sanjeev Kumar being father, is under a legal and moral obligation to share expenses for bringing up of the minor daughter. The trial Court

considering his income, requirements of the girl, awarded a sum of Rs. 10,000/- per month, which considering the status of the parties, requirements of the daughter, trend of rising prices, can certainly be not termed to be on higher side. The Court below has directed Sanjeev Kumar to pay Rs.5,000/- per month as rent. Again considering the high rate of rent in the area, the requirement of accommodation and other factors, rent awarded @ Rs.5,000/- per month cannot be said to be excessive.

Sanjeev Kumar in the instant petition has clearly admitted that he being father is willing to incur the expenses of the minor child namely, Vanshika. He by his own way of calculation has asserted that Rs.10,000/- per month awarded to the respondent is for herself and minor child, namely, Vanshika i.e. Rs.5,000/- each. He has given his earnings to be Rs.31,444/- per month and that of Suman as Rs.39,557/-.

Counsel for the revisionist has referred to citation **Ravi Dutta vs. Kiran Dutta and another 2014 (5) R.C.R. (Criminal) 178**, by Delhi High Court, wherein it was observed that non-consideration of Domestic Incident Report by trial Court, Court trying cases under Domestic Violence Act cannot by pass a mandate of Section 12 of Domestic Violence Act, which requires consideration of Domestic Incident Report prior to passing of any order under Section 12 of the Domestic Violence Act. However, I find that in this case report dated 4.9.2013 by Protection Officer, is there on the record. Though it has not been specifically referred to in the impugned order, but then being part of the file, is supposed to have been considered by learned

Sub Divisional Judicial Magistrate. The authority referred to by learned counsel for the petitioner- revisionist is not applicable and helpful to the case of the petitioner.

I do not find anything wrong with the orders passed by the Courts below with regard to the grant of interim maintenance. There is no question to interfere with such orders.

The petition stands dismissed.

27.8.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No