

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

**Criminal Misc. No. M-25197 of 2015 (O&M)**  
**Date of decision : November 20, 2018**

**Tek Chand**

....Petitioner

versus

**Dhanpati**

....Respondent

**Coram: Hon'ble Mr. Justice Fateh Deep Singh**

**Present : Mr. Ajit Kumar Sharma, Advocate, for the petitioner**

**Fateh Deep Singh, J. (Oral)**

This petition under Section 482 of the Code of Criminal Procedure have come about by the husband-petitioner Tak Chand seeking to challenge an order passed in revision petition dated 6.5.2015 by the court of learned Additional Sessions Judge, Jhajjar whereby by the impugned findings the court below has reversed the findings earlier given by the court of learned Additional Chief Judicial Magistrate, Jhajjar dated 28.10.2014 dismissing the claim of the wife Dhanpati her right to maintenance.

Appreciating the submissions of Mr. Ajit Kumar Sharma, learned counsel for the petitioner, it is an admitted stand of the petitioner

Tek Chand that he has retired as Honorary Lieutenant from the Indian Army and further that petitioner Dhanpati happens to be his legally wedded wife out of which the couple had given birth to a number of children. The short point that comes up is if a destitute who is unable to maintain herself and does not own any moveable or immoveable property is entitled to maintenance allowance or not. The court below in the impugned findings had very well appreciated the evidence led by the wife comprising of deposition of CW2 Shanti who has specifically stated that the wife Dhanpati is neither being supported by her sons nor by the husband Tek Chand. It is unrebutted on the records which is evident from the bank statement that the husband is getting per month pension approximately around Rs 33,000/- and little above. Nothing is established to show by the husband that she has her own independent income or that she has financial support to upkeep herself and thus maintain. On the other hand a positive averment has been come about by the court below in the impugned order that the husband is having his pensionary benefits besides other immoveable assets and the wife at the age of 75 years needs support of the husband when even the children have not come to her aid. Keeping in view the advance age of the dependent wife, she needs a roof, food besides medicine and other day to day requirements and the court below has rightly awarded Rs 5000/- per month as maintenance to the wife. Keeping in view the moveable and immoveable properties of the husband, to the mind of this Court this does

not appears either too meager or too high an amount necessitating intervention by this Court. Thus, on the face of it neither there is any illegality or perversity in the findings under assail. The petition being hopelessly without any merit stands dismissed in *limine*.

November 20, 2018  
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( Fateh Deep Singh )  
Judge

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| <i>Whether speaking/reasoned ?</i> | <i>Yes/No</i> |
| <i>Whether Reportable ?</i>        | <i>Yes/No</i> |