

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

**CRM-M-28259-2015(O&M)
Date of decision:-25.7.2018**

Raman @ Banti

...Petitioner

Versus

Vandana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Ms.Payal Mehta, Advocate
for the petitioner.

Mr.Ashok Sharma Nabhewala, Advocate
for the respondents.

H.S. MADAAN, J.

Petitioner Vandana – wife (herein – respondent No.1) and Master Bhavishiya – minor son of Raman @ Banti (herein petitioner) had brought a petition under Section 125 Cr.P.C. for grant of monthly maintenance allowance against the latter on the assertions that respondent despite having sufficient means has neglected and refused to maintain them and since the petitioners do not have any source of income, the respondent be directed to pay monthly maintenance

allowance to them.

On notice the respondent (herein – petitioner) appeared and filed reply taking several preliminary objections challenging maintainability of the petition stating that petitioner No.1 is not entitled to any maintenance since she herself had withdrawn from the company of respondent; that as a matter of fact the petitioner No.1 had been pressurizing respondent to separate from his parents to which he did not agree being the only son of his parents; that the petitioner No.1 left the matrimonial home along with the minor child of her own and started living with her parents; that she got registered a false FIR No.82 dated 20.5.2008 under Sections 406 and 498-A IPC with Police Station Sector-19, Chandigarh against the respondent and his parents; that the respondent and his parents were arrested and remained in police custody and they were humiliated in that manner; that the petitioner No.1 is a qualified woman and can find a job; that she had involved the respondent and his family members in several cases. According to the respondent, he is having income of Rs.10,000/- per month working as Manager with Raman Finance Company, which is owned by his father and that he does not possess any moveable or immovable property. The respondent prayed for dismissal of the petition.

On the pleadings of the parties, following issues were framed:

- (i) Whether the petitioners are entitled to maintenance, as claimed in sub para No.1 and 2 of para No.5 of the petition along with litigation expenses? OPP.*
- (ii) Whether the present petition is not maintainable?*

OPR.

(iii) Whether the petitioner has concealed the true facts regarding income of the respondent? OPR.

(iv) Relief.

During the course of her evidence, the petitioner examined herself as PW1 and she repeated on oath her case as given in the petition. She further examined Sh.Sanjeev Goel, Office Incharge of St.Xavier High School, Sector-20, Panchkula, who brought the summoned record with regard to student, namely, Bhavishya (petitioner No.2 in this case) proving copy of admission receipt dated 2.11.2010 as Ex.PW2/A and attested copy of tuition fee as Ex.PW2/B.

With that the evidence of the petitioners stood closed.

In rebuttal, respondent (herein petitioner) appeared as RW1, who tendered his affidavit Ex.RW1/A repeating on oath his case as given in the written reply. He proved on record documents Ex.R1 to Ex.R3.

After hearing arguments, learned trial Court decided issue No.1 in favour of the petitioners and against the respondent, issue No.2 was decided against the respondent and in favour of the petitioners, issue No.3 against the petitioners and in favour of the respondent. Resultantly, the petition was accepted and the petitioners were awarded maintenance @ Rs.2,000/- per month for petitioner No.1 and Rs.1,500/- per month for petitioner No.2 and in addition to that Rs.10,000/- as litigation expenses.

The petitioners preferred a revision petition against the said

order passed by Judicial Magistrate Ist Class, Chandigarh, which was disposed of by learned Additional Sessions Judge – cum – Judge, Special Court, Chandigarh vide judgment dated 30.3.2015, who modified the order passed by the trial Magistrate and awarded a sum of Rs.3,000/- per month for petitioner No.1 and Rs.5,000/- per month for petitioner No.2 from the date of the application.

The respondent – Raman @ Banti (herein – petitioner) is aggrieved by the order passed by learned Additional Sessions Judge – cum – Judge, Special Court, Chandigarh and he has filed the present petition under Section 482 Cr.PD.C. praying that the order passed by Additional Sessions Judge – cum – Judge, Special Court, Chandigarh accepting the revision petition be set aside.

Notice of the petition was issued to the respondents, who put in appearance through counsel.

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

In this case the parties are not at dispute with regard to their relationship inter se i.e. petitioner Vandana being legally wedded wife of Raman @ Banti and Master Bhavishiya being their minor son. They are not at variance that Vandana along with minor son Bhavishiya are residing separately from Raman @ Banti. If we see the evidence on record both oral as well as documentary and other surrounding circumstances, then it comes out that both the spouses could not pull on together and the wife left the matrimonial home along with the minor son of the parties. Though petitioner wife is highly educated and is qualified but then she is not shown to be doing any job. There is nothing

on record to show that she has got other source of income from which she can meet her needs and that of the minor son. The minor is also not shown to be possessed of any property from which she can derive any income, which can be utilized for his bringing up and maintenance. Thus, the natural inference to be drawn is petitioners are unable to maintain themselves.

Undisputedly, the respondent is an able bodied person. According to him he is working as Manager with Raman Finance Company, which is owned by his father and is getting Rs.10,000/- per month. As it comes out from the record, the respondent is only son of his parents. As per the case of the petitioners, respondent husband belongs to a very rich family, which is having rental income of Rs.2 lakhs from showroom SCO 2405-06, Sector 22-C, Chandigarh. The respondent is running a finance company under the name and style of Raman Finance Company at Chandigarh having turn over of Rs.50 lakhs and earning Rs.2 lakhs per month. He is having an independent house at Chandigarh bearing No.3010 at Sector 21-D, Chandigarh over area of 10 marlas with market value of Rs.2 crores. The respondent while denying that he is financially sound having a number of immovable properties has come up with a plea that the properties belong to his parents and such properties and income of parents cannot be taken into consideration while granting maintenance to the petitioners. Though respondent is correct to some extent but not fully. The fact cannot be lost sight of that respondent is only son of his parents. The properties in the name of his parents and the income gained by them can certainly be taken into consideration to determine the financial status of the respondent. As is

the general tradition and practice in our society, the parents save and spend money for their children and it can certainly be not taken that an offspring has nothing to do with the properties and income of his parents. It has to be taken note of that respondent getting his own statement recorded as RW1 had admitted in his cross examination that he has got two finance companies at Chandigarh, which were in his own name. He had further admitted that he is residing in a house at Sector 21, Chandigarh and running a finance company at Sector 22, Chandigarh. The petitioner No.2 is studying in a good school. Learned Additional Sessions Judge – cum – Judge, Special Court, Chandigarh while discussing the properties and income of parents of respondent has rightly observed that respondent is only beneficiary of such properties and income. Para Nos.14 and 15 of the judgment passed by learned Additional Sessions Judge – cum – Judge, Special Court, Chandigarh are quite relevant and are being reproduced as under:

14. These days of crushing and back breaking dearness when the prices of each and every commodity is sky-rocketing and getting education too costly to be afforded by a common man with his meagre income and limited sources, the miserable and pitiable plight of a deserted woman with minor child to be brought up and educated can be imagined well. Healthcare is another harsh and stark reality which stares her in the face and leaves her abandon the timely and proper medical treatment of herself as well as her children, in case any health problem arises. After deliberating upon all these factors, I have irresistibly come to the conclusion that a deserted woman needs and deserves to be compensated by reasonable and rationally well, with adequate and ample alimony from the income of her affluent husband with sufficient income in order that

she may make her both ends meet gracefully with dignity and honour and without spreading her hands to anybody else in any kind of minor or major help.

15. In view of the above discussion the revision is allowed and the impugned order dated 7.12.2013 passed by Sh.Jaswinder Singh, JMIC, Chandigarh is modified to the extent that the respondent-husband is directed to pay an amount of Rs.8,000/- per month as maintenance to the petitioners i.e. Rs.3,000/- per month to the petitioner No.1- wife and Rs.5,000/- per month to the petitioner No.2 (minor child) from the date of application. Trial Court record alongwith a copy of this order be returned. Revision file be consigned to the record room.

These paras contain the reasoning for grant of maintenance amounts and quantum thereof considering the financial position of the respondent.

I do not find any illegality or infirmity with the judgment passed by Additional Sessions Judge – cum – Judge, Special Court, Chandigarh, which might have called for interference by this Court while exercising jurisdiction under Section 482 Cr.P.C.

Therefore, the petition stands dismissed.

25.7.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No