

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

CRM-M-32977-2018

Date of decision:-7.8.2018

Raj Mohinder Singh Johal

...Petitioner

Versus

Mukesh Lata alias Priya

...Respondent

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

Present : Mr.Vishva Bahl, Advocate
for the petitioner.

H.S. MADAAN, J.

Petitioner Raj Mohinder Singh Johal has approached this Court by way of filing petition under Section 482 Cr.P.C. seeking quashing of judgment dated 3.7.2018 passed by Sessions Judge, Amritsar by partially upholding the order of Judicial Magistrate Ist Class, Amritsar by granting interim maintenance to the tune of Rs.3,000/- per month to Mukesh Lata alias Priya wife of Raj Mohinder Singh Johal.

Briefly stated, facts of the case are that Mukesh Lata alias

Priya had filed a petition under Section 125 Cr.P.C. against Raj Mohinder Singh Johal claiming that marriage between the two had taken place on 19.1.1999, which was registered on 25.1.1999. Status of both the spouses at the time of marriage was that of divorcee. Both of them resided together. The marriage was consummated and the couple was blessed with a male child on 1.10.2004, who is applicant No.2 in this case. In the application, allegations regarding harassment and torture of applicant Mukesh Lata @ Priya at the hands of Raj Mohinder Singh Johal have been levelled. It has further been contended that he has neglected and refused to maintain the applicants despite having sufficient means working as Sub-Inspector in Punjab Police posted at Amritsar drawing monthly income of Rs.60,000/- to Rs.70,000/-. During the pendency of the petition under Section 125 Cr.P.C., the applicants have craved for grant of interim maintenance i.e. Rs.30,000/- per month for applicant No.1 and Rs.20,000/- per month for applicant No.2 and Rs.25,000/- as one time litigation expenses.

Respondent Raj Mohinder Singh Johal contested the application. As per his version, the marriage is void in the eyes of law since the applicant Mukesh Lata alias Priya had not legally divorced her first husband before contracting marriage with the respondent. However, it is admitted that both the spouses resided together as husband and wife and were blessed with a male child on 1.10.2004. According to the respondent, he is serving as Head Constable in Police drawing a salary of Rs.20,000/- per month. It is contended that applicant No.1 has a huge number of movable and immovable properties in her name and she is running a boutique and beauty parlor from where her monthly income

around Rs.1 lakh per month, therefore, applicant No.1 is not entitled to receive any maintenance.

The trial Court considering the rival contentions took into view that in the written reply, the respondent has admitted his income to Rs.20,000/- per month, therefore, keeping in view the social strata to which the parties to litigation belong, skyrocketing prices of necessities of life, food, shelter, clothing, medical expenses, awarded a sum of Rs.3,000/- per month to applicant No.1 and Rs.2,000/- per month to applicant No.2 as interim maintenance payable by the respondent from the date of passing of order till disposal of the petition.

Feeling aggrieved by the said order, the respondent had filed a revision petition before the Court of Sessions, which was however disposed of learned Sessions Judge, Amritsar vide order dated 3.7.2018. Learned Sessions Judge, Amritsar upheld the order passed by the trial Court with regard to grant of interim maintenance @ Rs.3,000/- per month to applicant No.1, however set aside the same with regard to applicant No.2 observing that on the date of passing of impugned order, he was under care and custody of revisionist.

Still feeling dissatisfied the respondent has approached this Court by way of filing the present petition.

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

The Court while awarding interim maintenance to applicant No.1 has taken into view all the necessary factors including monthly income of the present petitioner, the trend of rising prices, the social status of parties, the amount required for basic needs etc.

As regards the contention of learned counsel for the revisionist that marriage between the petitioner Raj Mohinder Singh Johal and Mukesh Lata alias Priya was not legal and valid being in violation of Section 5 of the Hindu Marriage Act, but it is a question which can be decided by allowing the parties to lead evidence in respect of their contentions and further in the written reply filed by him, the respondent has admitted that he and Mukesh Lata alias Priya got married and after marriage started residing together. The marriage was consummated and Mukesh Lata alias Priya gave birth to a son namely Gagandeep Singh Johal. Therefore, maintenance cannot be denied to applicant Mukesh Lata alias Priya.

The judgment passed by learned Sessions Judge, Amritsar is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein, which might have called for interference by this Court while exercising powers under Section 482 Cr.P.C.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

7.8.2018

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No