

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-33198 of 2015

Date of decision : October 25, 2018

Sitender Yadav

....Petitioner

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ram Pal Verma, Advocate, for the petitioner

Mr. Munish Sharma, AAG, Haryana for the
State/respondent no. 1

Mr. KS Khaira, Advocate, for respondent no. 2

Fateh Deep Singh, J. (Oral)

The brief facts that are necessitated to be highlighted in this petition under Section 482 Cr.P.C. preferred by petitioner-husband Sitender Yadav are as follows:-

Initially wife Smt. Jyoti filed against her husband Sitender Yadav and other relatives a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short, the

Act) whereby she has sought protection from physical violence and maintenance etc. In her application she has put up the stand that marriage between the applicant and Sitender Yadav took place on 15.2.2008 and that the husband at that time was employed as Sepoy in the Indian Army. During the course of their married life a matrimonial dispute had arisen and which has its own ups and downs and repeated settlements had been arrived at between the two sides but in vain, thus, forcing the wife to abandon her matrimonial home. It is the stand of the wife that the husband is earning Rs 25000/- per month from his job while other members of family too are gainfully employed. The court of learned Judicial Magistrate Ist Class, Fatehabad through orders dated 11.1.2013 upon appreciation of oral as well as documentary evidence dismissed the application of the wife. The same was challenged by the wife in an appeal and it is the court of learned Additional Sessions Judge, Fatehabad which through impugned orders dated 17.8.2015 Annexure P/3 set aside the orders of the court below and has ordered the husband to pay maintenance to the tune of Rs 7000/- per month to the wife besides maintenance of Rs 2000/- per month as rent from the date of the application. The same is subject matter of challenge in this petition under Section 482 Cr.P.C. by the husband.

After hearing counsel for the two sides and on perusal of

the records, the inter-se relationship of the parties is not at all questionable before this Court. Besides the fact that the husband is presently employed in the Indian Army on the rank of Sepoy. The contentions of counsel for the petitioner-husband that he is not earning handsomely has been well taken note of in the impugned findings where before the courts below the husband in his affidavit has stated his salary to be Rs 12,000/- per month but in his cross-examination as has been the conclusion drawn in the impugned findings he conceded that he was earning Rs 22,000/- per month. Counsel for the husband could not convince this Court as to any tangible evidence to show as to the wife was earning anything or had any other source of income. Under the provisions of Section 20 of the Act, Court is well within its powers to grant monetary relief to enable the wife to meet the expenses incurred and sufferings in a domestic violence and which needs to be fair and adequate commensurate with the economic status of the husband. Being in the Indian Army and as has been held to be earning Rs 22,000/- per month he must be enjoying other service benefits to which the personnel of the Defence are entitled to. In her relief, as has been pointed out by the counsel for the wife Mr. K.S.Khaira, the wife has also sought and claimed residence by virtue of Section 17 of the Act. The wife admittedly has been residing at the house of her mother

since the year 2010 as has been the conclusion drawn by the court below and therefore, the court has rightly held that the wife was entitled to alternate accommodation and therefore, directed the husband to pay rent in the alternate of this accommodation. In the impugned findings, the court has by some amount of reasonable guess work has drawn the conclusion that the wife needs Rs 2000/- per month to pay for the rent of her accommodation and further in the light of the income and earnings of the husband has arrived at the conclusion that the wife is certainly entitled to Rs 7000/- per month as maintenance. Having regard to the ever increase in prices of essential commodities and cost of living, the court cannot forget the fact that there may be unforeseen events in the life of the wife for which she needs money to take care of the same and therefore, award of Rs 7000/- per month as maintenance is certainly a reasonable one and cannot by any means shown to be on the higher side by the counsel for the petitioner Mr. Ram Pal Verma. Learned counsel for the petitioner could not convince this Court how there is a legal necessity for this Court to exercise its inherent powers under Section 482 Cr.P.C. to meet the ends of justice when there is no such eventuality pointed out to this Court by the counsel. A bare perusal of the impugned findings certainly shows that it is a well reasoned judiciously balanced findings and needs to be upheld. Having no

merits in the instant petition, the same stands dismissed.

October 25, 2018
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(Fateh Deep Singh)
Judge

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