

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 36030 of 2017 (O&M)
Date of decision : 18.9.2018

...

Ravi Kumar

.....Petitioner

vs.

Preeti

.....Respondent

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

Present: Mr. Ajit Lamba, Advocate
for the petitioner.

None for the respondent.

...

H. S. Madaan, J.

Petitioner Ravi Kumar has filed the present petition under Section 482 Cr.P.C., seeking setting aside of order dated 23.5.2017 passed in Appeal No. 35 of 2015 under the Protection of Women from Domestic Violence Act, 2005 (in short ' the Act '), by Additional Sessions Judge, Hisar, vide which order dated 19.9.2015 passed by SDJM, Hansi, has been set aside and visitation rights of the petitioner to meet his minor girl child have been curtailed; further craving for grant of visitation rights to him in terms of order dated

19.9.2015 passed by Additional Civil Judge (Senior Division) Hansi.

Briefly stated, facts of the case are that Preeti, estranged wife of Ravi Kumar had filed a petition under the Act, against her husband Ravi Kumar and others. On getting notice, respondent – husband appeared in the said case. He moved an application for issuance of direction to the petitioner to allow him to meet his daughter Purvi on weekends, holidays and to bring Purvi on each and every date of hearing, to enable the respondent to meet his daughter. That application was allowed by the trial Court vide order dated 19.9.2015 and respondent – husband was given visitation rights to visit his daughter Purvi and to meet her every fortnightly on Sunday from morning till evening. Feeling aggrieved, Preeti had filed an appeal before the Court of Sessions, which was assigned to Additional Sessions Judge, Hisar. The Additional Sessions Judge, after hearing the arguments by both the sides, in light of Section 21 of the Act, which provides for making arrangement for visit of child or children dilating that “if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.”, and considering that an agreement had taken place between the parties in Mediation case No. 216 of 2017, Re: CRR No. 1971 of 2015, titled as Preeti vs. Ravi Kumar dated 7.4.2017; the parties had agreed that the respondent-husband shall meet the daughter in future between the time 11.00 a.m. to 12.00 noon in the court premises on the dates fixed for hearing in the Hansi Court and further the petitioner-wife and daughter Purvi shall have liberty to leave the court premises after

12.00 noon without any objection of the respondent Ravi Kumar, observed that in view of such agreement dated 7.4.2017, between the parties, the impugned order passed on 19.9.2015 has become infructuous. Therefore, the appeal was allowed and order dated 19.9.2015 was set aside. Ultimately, application of respondent No.1 dated 25.5.2015 was dismissed. This order has left the respondent-husband Ravi Kumar aggrieved and he has approached this Court, challenging the order passed by Additional Sessions Judge, by way of filing the instant petition under Section 482 Cr.P.C., notice of which was given the respondent, who has however, not appeared.

After hearing counsel for the petitioner and going through the record, I find that the present petition is devoid of merit. Once the parties had reached a settlement in Mediation case No. 216 of 2017 Re: CRR No. 1971 of 2015, titled as Preeti vs. Ravi Kumar dated 7.4.2017, they are bound by the same and none of the parties can wriggle out of it. Since a settlement had been arrived at after passing of impugned order dated 19.9.2015, by the trial Court, the said order stood superseded and respondent-husband cannot take advantage of the same.

Counsel for the petitioner has referred to authority **Salem Advocate Bar Association, T.N., vs. Union of India (2005) 6 Supreme Court Cases 344**, in support of his contention that since this order passed in Mediation proceedings had not been incorporated in award or decree, therefore, the same does not have any legal sanctity.

I am not impressed by such contention. Both the parties admitted having entered into such settlement. It being so, as has been

observed by the learned Additional Sessions Judge, Hisar, in the impugned order, it is not open to respondent-husband to wriggle out of such settlement, for such like reasons.

The order passed by Additional Sessions Judge, Hisar, does not suffer from any illegality or infirmity and is well reasoned one. There is no ground to interfere with the same and there is no merit in the petition in hand. Therefore, the same stands dismissed.

18.9.2018
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No