

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-38491 of 2016 (O&M)
Date of decision : December 01, 2018

Vikram Kumar

....Petitioner

versus

Megha

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ivneet S. Pabla, Advocate, for the petitioner
Mr. NS Shekhawat, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

Megha now respondent filed against the present petitioner Vikram Kumar an application under Section 125 of the Code of Criminal Procedure on the grounds that the applicant wife and respondent were married on 1.12.2014 and during the course of matrimony a dispute has arisen over it which need not to be gone into at this stage.

It is thereafter the wife filed the application seeking maintenance from the husband on the grounds that she is unable to

earn and has no source of income or immovable property and is totally dependent upon her relatives. It is claimed that the husband works as a Quality Analyst with an Undertaking at Gurugram getting salary of Rs 40,000/- besides having moveable and immovable properties including agricultural land from which he has handsome income and thus claims maintenance to the tune of Rs 20,000/- per month besides litigation expenses.

The court of learned Judicial Magistrate Ist Class, Kurukshetra vide orders dated 30.4.2016 Annexure P/3 allowed the application and directed the respondent husband to pay Rs 5000/- per month as interim maintenance to the petitioner.

The husband thereafter impugned the orders before the court of learned Additional Sessions Judge, Kurukshetra and it is through the orders under challenge dated 3.10.2016 wherein following orders were passed:-

“Learned counsel for the revisionist has sought time to pay the 50% amount of interim maintenance as directed by the Predecessor of this court vide order dated 7.9.2016. He seeks time which is granted till lunch as the 50% amount of interim maintenance in case of execution of order dated 30.4.2016 passed by the court of Shri Saurabh Sharma, learned

Judicial Magistrate Ist Class, Kurukshetra was to be deposited within 10 days of the order dated 7.9.2016, is to be deposited by him. The time is granted. Case file be taken up after lunch.”

“None has appeared on behalf of revisionist despite repeated calls. It is already 3.25 PM. There is no report of depositing of the amount with the learned Magistrate. Hence, the revision petition is dismissed. File be consigned to records and trial court record is ordered to be returned forthwith along with copy of the order.”

Sh. IS Pabla, learned counsel for the petitioner does not displace the fact as to the inter-se relationship between the couple. It is admitted stand even before the courts below by the petitioner husband that he is gainfully employed as Quality Analyst with Feb Furnished, Udyog Vihar, Gurugram and the copy of the salary slip placed by the applicant-wife before the Court shows his earnings as Rs 40,000/- per month. The claim that has been sought to be asserted that the husband is not having income as detailed has been forcefully thwarted by the respondent side. The document by way of Annexure P/2 cannot be considered as it was never placed before the trial court and thus, was not considered at the time of impugned

order.

It is the bounden duty of the husband who is gainfully employed to upkeep and maintain his wife/dependent who does not have any source of income and commensurate to his economic status. Even otherwise as has been observed by the learned Magistrate that the husband has not specifically denied this fact.

The impugned order itself reflects that on 3.10.2016, the husband had made his own statement through his counsel seeking sufficient time to pay 50% amount of interim maintenance and he was granted time till lunch to make good this undertaking and other balance. As per the executing court the amount was to be deposited within 10 days of the order from 7.9.2016 but subsequent orders of even date shows that nobody appeared for the revisionist inspite of repeated calls till 3.25 PM nor report of having complied with the orders was brought to the notice of the court as per the impugned findings.

Since the present petitioner had knowingly, intentionally and without there being sufficient reason disobeyed the orders of the court regarding payment of the maintenance amount even after having made a statement/giving undertaking to do so before the court and therefore, such disobedience certainly invites strict action from the court. Rather what is reflected from this conduct, the

petitioner has tried to hoodwink the court and to take undue benefit and thwart the due process of law and by such an act certainly has greatly undermined the judicial sanctity and for which he does not deserve any concession or leniency. Since the petitioner has invoked the jurisdiction of this Court under Section 482 Cr.P.C. for exercise of inherent powers of this Court and same is purely for preventing miscarriage of justice and is to be sparingly exercised. Learned counsel for the petitioner could not convince how it is necessitated in such an eventuality. Neither there is any illegality much less any impropriety in the findings under challenge. The petition being without merit stands dismissed.

December 01, 2018**'tiwana'****(Fateh Deep Singh)
Judge***Whether speaking/reasoned ?
Whether Reportable ?**Yes/No
Yes/No*