

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 47717 of 2017 (O&M)

Date of decision : 12.10.2018

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Deepak Dixit

.....Petitioner

vs.

Deepika Sharma

.....Respondent

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

Present: Mr. Jatinder Malik, Advocate for the petitioner.

Mr. Gulshan Nandwani, Advocate for the respondent

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H. S. Madaan, J.

This is a petition under Section 482 Cr.P.C. for quashing of judgment/order dated 13.7.2018, passed by Additional Sessions Judge, Rewari and Judgment/order dated 20.12.2016 passed by Judicial Magistrate Ist Class, Rewari, whereby the petitioner has been ordered to pay a sum of Rs.10,000/- per month to the respondent-wife as interim maintenance from the date of filing an application under Section 125 Cr.P.C. by the respondent-wife.

Briefly stated, facts of the case are that petitioner-Deepika Sharma, estranged wife of Deepak Dixit-respondent had brought a petition under Section 125 Cr.P.C. for grant of monthly maintenance allowance payable by her husband-respondent, for the reason that she was not possessed of any source of income and was unable to maintain herself, whereas the respondent despite having

sufficient means, had neglected and refused to maintain her, therefore, she be granted monthly maintenance allowance @ Rs.75,000/- per month.

Respondent appeared and filed written statement refuting the assertions made in the petition stating that the respondent is a qualified BDS doctor, earning Rs. 1 lac per month and is able to maintain herself. Whereas it is denied that respondent is earning Rs. 5 lacs per month, rather it is contended that his income is approximately Rs.2,50,000/- per annum, which is evident from the copy of his income tax return for the assessment year 2015-16. In the end respondent prayed for dismissal of the petition.

During the pendency of such proceedings, petitioner moved an application for interim maintenance, which was allowed by Judicial Magistrate Ist Class, Rewari, vide order dated 20.12.2016 and an amount of Rs.15,000/- per month as interim maintenance was awarded to the petitioner from the date of filing of petition.

Feeling aggrieved, the respondent had filed a revision petition to the Court of Sessions, which was partly allowed and interim maintenance granted by the Judicial Magistrate Ist Class, Rewari, was reduced to Rs.10,000/- per month.

Even then, the respondent felt dissatisfied and he has brought the present petition under Section 482 Cr.P.C., praying that the orders passed by the Courts below, granting interim maintenance to the petitioner, be set aside.

Notice of the petition was given to the respondent, who put in appearance.

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

In this case relationship of husband and wife between the parties has not been disputed, so is the fact that they are residing separately. It is a matter of evidence whether applicant- Deepika Sharma is residing separately from her husband Deepak Dixit for or without any reasonable cause. The purpose of granting interim maintenance is to enable the petitioner to meet her basic needs, till her claim for maintenance is decided on merits, which may consume some time.

In this case, according to applicant-Deepika Sharma, her husband is doing business in the name of Rukmani Enterprises dealing in scientific equipments and surgical equipments, earning Rs. 5 lacs per month. The respondent has denied this thing, contending that he is earning Rs.2,50,000/- per annum, in terms of the income tax return filed by him, which means, his monthly income comes out to be around Rs.21,000/-. Though according to the respondent, who is revisionist before this Court, applicant is a BDS doctor and earns Rs. 1 lac per month but no relevant document in that regard could be placed on record. Learned Judicial Magistrate Ist Class, Rewari, has observed that applicant is only an intern pursuing her BDS career. There is nothing on file to show that she is working some where or earning some amount.

Even if we take that revisionist -respondent is earning Rs.21,000/- per month, then applicant is entitled to the living standard of her husband, keeping in view the basic needs, like food, health,

transportation etc. A sum of Rs.10,000/- per month granted by the revisional Court, as interim maintenance per month, could certainly be not said to be on higher side.

Therefore, I do not find any illegality or infirmity with the order passed by the revisional court. The same is upheld.

The revision petition is without any merit and the same is dismissed.

12.10.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No