

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

**CRM-M-5161-2017 (O&M)
Date of Decision: 25.10.2018**

Kuldeep Singh

....Petitioner

Versus

Daljit Kaur

....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Petitioner in person with
 Mr. Prateek Pandit, Advocate.

Respondent in person with
Ms. Kuljit Kaur, Advocate.

ANITA CHAUDHRY, J

The petitioner has assailed the order dated 13.11.2014 vide which the Judicial Magistrate Ist Class, Kapurthala had directed him to pay maintenance of Rs.4000/- and to provide shared household to the wife.

Limited notice of motion was issued since the petitioner had restricted his prayer and had limited it only to the order vide which he was required to provide residence in the shared household.

Both the parties were sent for mediation. Mediation has failed.

CRM-18019-2018 was filed by the respondent seeking vacation of the stay granted on 28.02.2017. The respondent had also appended the rent note to show that she had taken a house on rent from December, 2017 onwards.

Counsel for the petitioner contends that the issue which remains is limited and he does not dispute the maintenance amount and the petitioner is present in the Court and he states that he would pay Rs.2,000/- per month as rent to the respondent in lieu of residence. The counsel submits that 3 children born out of the marriage are with the husband and he is bearing all the expenses.

Learned counsel appearing for the respondent urges that the petitioner had challenged the order of the Magistrate and instead of filing an appeal, he filed a revision petition. Counsel submits that the petitioner should provide the residence in his house and it is difficult for the respondent to live alone.

Counsel for the petitioner contends that the respondent had approached the Court and had sought assistance of the police for implementation of the order passed by the Magistrate and the police gave a report that the parties cannot live together and it can cause physical and financial loss to both of them. Counsel states that there is a lot of animosity and the atmosphere in the house would be polluted and it would affect the children and the petitioner is ready to pay the amount in lieu of residence and he would clear the arrears also.

An interim order was passed vide which maintenance was allowed to the respondent. Besides this a direction was given and the husband was to provide separate residence in the shared household residence. It was also clarified that if the wife wanted to stay in a separate house then she could claim rent @ Rs.2000/- per month. The order was assailed. Instead of filing appeal, a revision was filed. The revision could have been treated as an appeal but the Court below though noticed that fact

but declined to treat it as an appeal and went into the merits of the order and dismissed the revision.

The petitioner had restricted his prayer only with respect to the direction for providing residence to the respondent which was stayed in February, 2017.

The petitioner today states that he is ready to pay rent and also clear the arrears.

Considering the fact that it is an interim order and the animosity between the couple, it would be appropriate to modify the order and direct the petitioner to pay Rs.2000/- per month as rent from November, 2014 onwards. The petitioner states that he needs some time to clear the arrears.

The petition is partly allowed. The order is modified to the extent which concerns only the right of residence. The order granting maintenance has not been assailed before me. So far as the arrears on account of rent are concerned, they will be payable from November, 2014. The petitioner would clear the same within 3 months from today.

The respondent would give her account number to the petitioner in the trial Court so that the amount is transferred in her account directly.

October 25, 2018

ps-I

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No