

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

CRR-1971-2015

Date of decision:-19.7.2018

Preeti

...Petitioner

Versus

Ravi Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Gopal Singh Nahel, Advocate
for the petitioner.

None for the respondent.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 5.5.2015 passed by learned Additional Sessions Judge, Hisar vide which he had found Preeti entitled to interim maintenance @ Rs.5,000/- per month and minor Purvi Rs.3,000/- per month from the date of filing of the application. It has been observed that maintenance allowance of Rs.3,000/- per month awarded to minor Purvi deserves to be deposited in recurring deposit either in Indian Post Office or in Nationalized Bank till the date of majority of Baby Purvi with the stipulation that amount would not be allowed to be withdrawn without the consent of Ravi Kumar and

Preeti.

Briefly stated, facts of the case are that marriage between Ravi Kumar and Preeti was solemnized on 19.4.2013 at Hansi, thereafter the couple started residing together; that the marriage was consummated and they were blessed with a daughter, namely, Purvi on 22.1.2014, who is presently residing with her mother Preeti; that a marital discord developed between the spouses; that Preeti lodged an FIR against her husband and in-laws on the ground of demand of dowry and misappropriation of *ISTRIDHAN*; that wife Preeti along with her minor daughter Purvi are residing separately from Ravi Kumar; that petitioner Preeti had approached the Court by way of filing a petition under Section 12 read with Section 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as '*the Act*') against Ravi Kumar, Birma Devi and Anju. In that petition, it is alleged that Preeti and her daughter do not have any source of income, whereas respondent is posted as a Teacher in Government Senior Secondary School, village Ajamwala, Tehsil Abhor, District Fazilka getting Rs.45,000/- per month but even then he has neglected and refused to maintain his wife and minor daughter unable to maintain themselves.

On notice, the respondents appeared and filed reply denying allegations of domestic violence levelled against them by the petitioner, rather it is contended that petitioner herself is a hot tempered arrogant woman always creating problems for respondents on petty matters; that soon after the marriage Preeti started quarrelling with her husband asking him to separate from his family members; that she did not pay any respect

to the respondents using filthy language even in presence of their relatives and friends; that she would leave the matrimonial home of her own and when on return she was asked about it, she would abuse the respondents, in that way, the petitioner is residing separately from her husband without any justifiable reason; that she is engaged in work of knitting and stitching and her family members are having movable and immovable properties. According to respondent – husband, he is posted as a Teacher in Government Sr.Sec.School, Ajamwala. The respondents prayed for dismissal of the petition.

During pendency of the main petition, interim maintenance was granted to the petitioner @ Rs.10,000/- per month and to her daughter Purvi @ Rs.3,000/- per month. The respondent – husband had challenged the order passed by the trial Court by way of filing an appeal in the Court of Sessions, which was assigned to learned Additional Sessions Judge, Hisar, who vide impugned judgment dated 5.5.2015 modified the order dated 19.2.2015 observing that Preeti deserves Rs.5,000/- per month as interim maintenance, whereas minor Purvi deserves Rs.3,000/- per month, though he put a condition that maintenance allowance of Rs.3,000/- per month awarded to minor Purvi be deposited in recurring deposit either in Indian Post Office or in Nationalised Bank till the child attained majority.

Petitioner Preeti felt dissatisfied with that judgment and has filed the present revision petition, notice of which was issued to respondent, who initially put in appearance through counsel.

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

A perusal of the order passed by Sub Divisional Judicial Magistrate, Hansi goes to show that it is mentioned therein that admittedly respondent No.1 is employed as a Teacher in Government Senior Secondary School, village Ajamwala, Tehsil Abohar, District Fazilka getting about Rs.45,000/- per month and applicant being wife of respondent No.1 is legally entitled to equal status as that of respondent No.1. Rs.10,000/- per month has been awarded as interim maintenance for Preeti and Rs.3,000/- per month to his daughter Baby Purvi from the date of filing of the petition. On appeal, learned Additional Sessions Judge, Hisar had reduced the maintenance amount to Rs.5,000/- per month to petitioner Preeti and as regards minor Purvi, it is directed that the amount be deposited in recurring deposit. The whole approach of learned Additional Sessions Judge, Hisar is erroneous and misconceived while it stands proved on record that respondent is in Government service getting Rs.45,000/- per month as salary, which amount is sufficient for his maintenance and that of his estranged wife and minor daughter. It is a time of high prices when cost of essential items are skyrocketing. The wife and child are entitled to have the same social and economic status as that of their husband/father. Out of Rs.45,000/-, Rs.10,000/- as maintenance to Preeti could certainly be not said to be on higher side and learned Additional Sessions Judge, Hisar unnecessarily without any justification and giving valid reasons reduced that amount to Rs.5,000/- in an arbitrary manner and as regards Purvi made observations that the amount be deposited in a recurring deposit either in Indian Post Office or in Nationalised Bank till the child attained majority. This condition is also

very strange. Hard cash is required for meeting needs of the child and her bringing up so also to meet the need of food, clothing, medical treatment, education etc. It cannot be understood how and why the learned Additional Sessions Judge, Hisar has issued such direction with the wife being unable to meet her own needs and that of the child. It sounds very strange that learned Additional Sessions Judge, Hisar vide order dated 5.5.2015 directed that the maintenance awarded to the child be deposited in recurring deposit either in Indian Post Office or in Nationalized Bank till the child attained majority with a condition that no withdrawal would be allowed without consent of Ravi Kumar and Preeti. This condition being highly arbitrary and unjustified needs to be withdrawn so also the order reducing the maintenance granted to petitioner Preeti from Rs.10,000/- to Rs.5,000/-. The order by learned Additional Sessions Judge, Hisar not only suffers from various legal infirmities and illegalities but is unsustainable also.

Thus, the impugned order dated 5.5.2015 passed by learned Additional Sessions Judge, Hisar is hereby set aside and order passed by learned Sub Divisional Judicial Magistrate is restored by way of accepting the present revision petition.

The revision petition is allowed accordingly.

19.7.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No