

Crl. Rivn. No. 3235 of 2014 (O&M)
Crl. Rivn. No. 586 of 2015 (O&M)

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

Crl. Rivn. No. 3235 of 2014 (O&M)
Date of decision : 15.03.2018

Pardeep Sharma

.....Petitioner(s)

Versus

Leena

...Respondent(s)

with

Crl. Rivn. No. 586 of 2015 (O&M)

Leena Sharma

.....Petitioner(s)

Versus

Pardeep Sharma and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. N.S. Dadwal, Advocate
for the petitioner in CRR-3235-2014 and
for the respondents in CRR-586-2015.

Mr. Adarsh Jain, Advocate
for the respondent in CRR-3235-2014 and
for the petitioner in CRR-586-2015.

ANITA CHAUDHRY, J.

These are two petitions filed against the interim order allowing maintenance in a complaint filed under the Domestic Violence Act. Both the parties are aggrieved and have filed separate petitions.

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I have heard counsel of both the sides.

Counsel appearing on behalf of Pardeep Sharma states that there was no valid marriage as it was after marriage that the husband found that the girl was a Muslim and they could not have been married and petition for declaring the marriage null and void had been filed in Mathura in December 2014. It was urged that the case had been transferred by the Apex Court to the District Courts, Saket. The counsel for the petitioner has placed on record the copy of the order passed by the District & Sessions Judge, Saket. The counsel further submits that Leena in her statement in the Court has admitted that she was Muslim and had not converted and that the marriage rituals were according to the Hindu custom. The counsel further urges that the father of Leena is a lawyer and her younger sister is also a lawyer and they were well equipped with legal knowledge and fraud has been played upon him. The counsel refers to the wedding card (Annexure P-1) and states that the full name was not mentioned in the wedding card. The counsel also refers to Annexure P-3 where Leena's name has been shown as Leena Khan daughter of Jormal Khan. The counsel further submits that besides this the respondent was more educated and she has admitted that she was working in a prestigious school and her income is over Rs.23,000/- per month, which was disclosed by her in her affidavit filed in the Court. It was urged that the petitioner used to work with M/s. Minerva Technology, Faridabad till August 2013 and his income was Rs.13,000/- per month. The counsel has placed on record the appointment letter of 2011 as well as the bank account statement to show that the last income drawn from

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Minerva Technology was Rs.13,200/- per month. The counsel submits that the petitioner could not clear his Bachelor of Computer Application Examination and places on record statement of marks and grade card status as on April 2015. The counsel says that the respondent is earning more than him and she was not entitled to any maintenance on both counts.

The counsel appearing for Leena urges that the petitioner had failed to place on record any document with respect to his income and they had pleaded that he was earning more than Rs.50,000/- per month and it is first time he has brought a document before this Court and has chosen to remain silent. The counsel submits that the petitioner is also highly qualified and refers to the certificate in computing issued in 2005. The counsel also refers to the Khatoni where he is shown to be a co-owner of 2 hectares of land in Mathura. The counsel submits that their marriage has not been declared to be invalid and the respondent is the legally wedded wife and the parties were known for over two years and the petitioner knew that she was from a Muslim family and till the marriage is invalidated he is bound to maintain his wife.

The respondent – Leena has admitted in her statement that she belongs to a Muslim family. She has admitted that the marriage rituals were as per Hindu custom. She has also stated that she had not converted. The issue regarding the validity of the marriage is under consideration by the Saket Court in Delhi. Whether it was a case of non-disclosure or concealment of fact, is yet to be decided.

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So far as the maintenance is concerned, Leena had pleaded that the husband was working in Minerva Technology, Faridabad as a Software Engineer and was getting a salary of Rs.40,000/- per month. There is no document at this stage to show that he is a Software Engineer or that he was earning Rs.40,000/- per month. The documents which have been placed on file today show that he had worked with Minerva Technology till 2013 and his income was a little over Rs.13,000/- per month. The respondent is working with D.A.V. Management Institute in Faridabad and in June 2014 her income was over Rs.23,000/- per month. She was getting a higher salary than the petitioner. There is no material at this stage to show that her job was temporary or contractual or that contract has come to an end. Therefore, the orders passed by the Courts below have to be set aside.

The petition filed by Pardeep Sharma (CRR-3235-2014) is allowed whereas the petition filed by Leena (CRR-586-2015) is dismissed.

15.03.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No