

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

CRR No.4008 of 2016 (O&M)
Date of Decision: March 22, 2018

Nunny Nangia @ Hunny Nangia

...Petitioner

Versus

Pooja Nangia

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dinesh Arora, Advocate
for the petitioner.

Mr. Munish Kumar Garg, Advocate
for the respondent.

JAISHREE THAKUR, J. (Oral)

The instant criminal revision has been filed by the petitioner-husband against the order dated 10.08.2016 passed by the Sessions Judge, Faridabad, whereby the amount of ₹ 5000/- granted as interim maintenance to the respondent-wife under the Protection of Women from Domestic Violence Act (for short 'the DV Act') by the Judicial Magistrate Ist Class, Faridabad, has been enhanced to ₹ 10,000/- per month.

2. In short, petitioner-Nunny Nangia @ Hunny Nangia solemnized a marriage with respondent-Pooja Nangia on 13.10.2008 as per Hindu rites and ceremonies, however, the said marriage could not survive

the test of time and which resulted into filing a complaint under the DV Act by the respondent-wife with the allegations of harassment and demand of dowry by the petitioner-husband and his relatives. The Judicial Magistrate Ist Class, Faridabad, after considering the rival contentions of both the parties, awarded interim maintenance to the respondent-wife @ ₹ 5000/- per month from the date of the application, which order came to be challenged before the Sessions Judge, Faridabad, who in turn allowed the appeal and enhanced the interim maintenance from ₹ 5000/- to ₹ 10,000/- per month. Being aggrieved against the said order passed by the Sessions Judge, Faridabad, the instant criminal revision has been filed.

3. Mr. Dinesh Arora, learned counsel appearing on behalf of the petitioner-husband argues that the learned Sessions Judge, Faridabad, has passed the impugned order in a mechanical manner. It is submitted that the Appellate Court has failed to appreciate the fact that respondent-wife is educated and capable of earning her livelihood, therefore, she is not entitled to claim maintenance. It is contended that the Appellate Court has erred in recording a finding to the extent that gross income of the petitioner, as per income tax return for the year 2014-2015, was ₹ 3,01,322/-. It is also argued that the Appellate Court has erred in ignoring the important fact that the respondent-wife through her father Sh. Sunil Kumar induced the petitioner to give an amount of ₹ 15 lacs to a property agent Ram Gopal on 1.5% interest and she is getting an amount of ₹ 22,500/- as interest from the same.

4. Per contra, Mr. Munish Kumar Garg learned counsel appearing

on behalf of the respondent-wife argues that the allegations with regard to inducement for paying ₹ 15 lacs are false, since the petitioner has entered into an agreement dated 22.02.2017 through the property dealer namely Ram Gopal, in which it is clearly mentioned that the said amount of ₹ 15 lacs had been paid by the said property dealer. Moreover, the statement of the property dealer Ram Gopal is also on record to the effect that the interest on the said amount was collected for a few months and thereafter invested in a property.

5. I have heard learned counsel for the parties, apart from perusing the record.

6. The Judicial Magistrate Ist Class, Faridabad, after considering the rival contentions of both the sides and income tax return of the petitioner-husband for the year 2014-2015, had directed the petitioner-husband to pay interim maintenance @ ₹ 5000/- per month to the respondent-wife, which order came to challenged in appeal by the respondent-wife. In appeal, the Sessions Judge, Faridabad, has increased the amount of interim maintenance from ₹ 5000/- to ₹ 10,000/- per month, while observing as under;

“Admittedly the appellant-wife is the legally wedded wife of respondent-husband. The legality and authenticity of the allegations as well as counter allegations levelled by the parties to the present lis against each other, would be adjudicated upon by the trial court when the evidence is led before it. As has been observed by the learned trial court in para no.8 of the impugned order while granting the interim

maintenance to the tune of Rs.5000/-, the learned trial court has relied upon the income of respondent-husband to be Rs.1,96,322/- on the basis of income tax return for the year 2014-15. A thorough perusal of the same shows that as per the income tax return for the year 2014-15 filed by the respondent-husband, he had shown in cross annual total income to be Rs.3,01,322/- say Rs.25,000/- per month. The deduction under Chapter 6(a) has been shown to be Rs.1,05,000/- and the total net income has been shown to be Rs.1,96,322/-. Since the deduction under Section 6(a) is regarding exemption from paying the income tax up to certain amount and as per income tax return for the year 2014-15 no income tax has been paid by the respondent-husband, so his annual income would be considered as Rs.3,01,322/- say Rs.25,000/- per month. Since the parties to the present lis have not been blessed with any child, so in these circumstances, this court deems it proper to award interim maintenance to the appellant-wife to the tune of Rs.10,000/- per month from the date of application and the impugned order is accordingly modified and the appeal preferred by the appellant-wife is accordingly accepted.”

7. A perusal of the impugned order passed by Sessions Judge, Faridabad reflects that on considering the income tax return of the petitioner-husband for the year 2014-2015, interim maintenance awarded by the trial court to the respondent-wife @ ₹ 5000/- was enhanced to ₹ 10,000/- per month. The said interim maintenance under the DV Act, is awarded to the respondent-wife on the basis of material available on the record and the same is subject to final decision of the trial court. The

argument as raised that the respondent wife has been collecting interest from the property dealer, is belied from the statement of Ram Gopal who submits that the amount of ₹ 15,00,000/- stands invested in a property. The petitioner-husband has taken various pleas before the Appellate Court as well as before this court, which are pure question of facts and the same can only be dealt with only on the basis of evidence led by the parties in support of their allegations and counter-allegations. Under the peculiar facts and circumstances of the present case, this court does not find any illegality or infirmity in the impugned order so passed.

8. In view of the above, the criminal revision in hand is hereby dismissed, being devoid of any merits. Needless to say any observation made herein is only for the purpose of deciding the Criminal Revision Petition and not a decision on merits.

March 22, 2018

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No