

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : October 26, 2018

1. Criminal Revision (F)-119 of 2015 (O&M)

Atamjeet Singh ...Petitioner

versus

Prabhpreet Kaur and another ...Respondents

2. Criminal Revision (F)-194 of 2015 (O&M)

Prabhpreet Kaur and anotherPetitioners

versus

Atamjit SinghRespondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. N.S.Shekhawat, for petitioner in CRR(F)-119-2015
and respondent in CRR(F)-194-2015

Mr. Akshay Kumar Jindal, for respondents in
CRR(F)-119-2015 and petitioners in CRR(F)-194-2015

Fateh Deep Singh, J. (Oral)

Since both the petitions the first bearing No. 119 of 2015 by petitioner husband Atamjeet Singh and second No. 194 of 2015 by petitioner-wife Prabhpreet Kaur and minor daughter having arisen from the same very order dated 22.4.2015 on account of consanguinity of facts and law points are being taken up and

disposed of together.

Heard Mr. N.S.Shekhawat, counsel for husband-Atamjit Singh and Mr. Akshay Kumar Jindal, counsel for wife-Prabhpreet Kaur and perused the records.

Admittedly, marriage between Atamjeet Singh and Prabhpreet Kaur was solemnized on 4.9.2008 and out of this wedlock Divasis Kaur a minor girl who is presently residing with the mother was born to the couple on 22.7.2009. The wife claims that on account of demand of Rs 15,00,000/- raised by the boy's side she was forced to institute criminal case against them and during the course of matrimonial feud, on 7.3.2011, the wife alleges she was assured by the husband that he will mend his ways and will shower love and affection took her back on the pretext of taking her to the matrimonial home at Noida but he took her to a Hotel where she was physically abused and tortured. On 10.3.2011, the wife called her brother at Ghaziabad and who rescued them and took them to Ambala and since then the mother and the girl are residing at the house of the parents. The wife and the daughter who were the initial applicants filed an application for maintenance under Section 125 Cr.P.C. on the grounds that they were not having any independent source of income nor own any immovable and moveable property whereas the husband is working in Viniculum Solutions and then

getting Rs 1,50,000/- per month and thus prayed for grant of maintenance besides litigation expenses.

The husband on appearance in his stand taken in the reply claimed that the wife has intentionally and willfully refused to join his company and that earlier he had filed application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights against the wife. The husband claims that the wife has willfully deserted him and is working at Ambala earning Rs 20,000/- per month and denied his salary to be Rs 1,50,000/- and terming the claim of the applicants to be unfounded sought its dismissal.

The then applicants in support of their claim examined wife Prabhpreet Kaur as PW1 who sought corroboration to her averments through testimony of her father Mahinder Singh as PW2 through affidavit Ex. PW2/A and thereafter evidence of the petitioner was closed.

It is worth while to refer here that the court below vide orders dated 23.3.2015 struck off the defence of the husband on account of non-payment of arrears of interim maintenance.

From the evidence and the arguments, it is well established beyond any doubt as to the inter-se relationship a child having born out of it and that on account of the arrogant and stubborn attitude of the husband the wife and the minor daughter

has been forced to abandon the matrimonial home. The testimony of the wife and her evidence as has been argued remained totally un rebutted by the husband. It is no where brought on the record by the husband that he is ready and willing to maintain the dependents. As has been noted by the court below in the impugned findings the husband in his stand accepts that his initial salary during the month of May, 2012 was Rs 94,714/- which is brought on the record by way of Annual income tax statement by way of Form 26AS of the employer of the husband of which the court below has taken judicial notice. Since provisions of Section 125 Cr.P.C. are summary in nature where stricter principles of Evidence Act are not applicable. Besides the well enshrined principle of law that the provisions for maintenance allowance are to prevent destituteness and vagrancy and ensure that a husband who is able bodied person earning maintains the wife and the minor child who are totally dependent upon him and that too commensurate to his economic status. It is also there in the records that the husband is a Software Engineer, therefore, his placement in such a position certainly gives impetus to the Court in drawing the conclusion as to his average earnings. The court below considering all these parameters has rightly drawn the conclusion that the husband is under legal obligation in the absence of any evidence of wife's earning or properties, is entitled to pay a

sum of Rs 12,000/- per month to the wife and Rs 8,000/- per month to the minor daughter from the date of filing of the petition. The learned counsel for the two sides could not convince this Court how such an amount can be termed to be meager or on the higher side and rather is a totally justifiable amount keeping in view that the husband too needs money for his upkeepment and maintenance and to meet his day to day expenses of life. Thus, in the light of what has been detailed and discussed above, this Court does not find any illegality or perversity in the impugned order which could necessitate intervention by this Court by the aid of Section 482 Cr.P.C. Both the petitions certainly are meritless and stands dismissed.

However, it would not be out of place to observe that the petition has come about in the year 2011 and almost seven years have passed, the wife and the daughter are well within the right to invoke the jurisdiction of the appropriate court under relevant provisions of law to seek enhancement of the maintenance, if so necessitated by change of circumstances.

October 26, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No