

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : October 10, 2018

1. Criminal Revision (F)-315 of 2015 (O&M)

Vipin Singal

....Petitioner

versus

Hansika

....Respondent

2. Criminal Revision(F)-76 of 2016 (O&M)

Hansika

....Petitioner

versus

Vipin Singal

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Brijender Kaushik, Advocate for petitioner-Vipin Singal
Mr. Deepak Girotra, Advocate, for respondent-Hansika

Fateh Deep Singh, J. (Oral)

Since both these petitions one by Hansika daughter and second by Vipin Singal father of Hansika are impugning a common judgment dated 18.11.2015 of the court of learned District Judge, Family Court, Rohtak and thus for the sake of brevity are being taken

up and disposed of together.

The applicant Hansika daughter of then respondent Vipin Singal being minor daughter through her mother Usha alias Arshi filed a maintenance application under the provisions of Section 125 Cr.P.C. seeking maintenance allowance from the father. The preliminary grouse over assertion of this right is based on the averments that she was residing with her mother and was having no independent source of income or earnings. She has underlined the family background claiming that she was born out of wedlock of her mother with respondent Vipin Singal on 11.10.2001 at PGI, Rohtak and prior to that her mother was married with one Shyam Sunder on 3.3.1995 and due to matrimonial dispute they had parted ways and divorce was secured on 7.9.1999 from the court of learned Additional District Judge, Rohtak. Thereafter her mother developed live-in-relationship with respondent out of which she was born. It is the case of the applicant girl that subsequently respondent tried to get out of this relationship by performing marriage with one Rangini and her mother had lodged FIR No. 307 dated 18.5.2006 under Sections 376, 417, 420 and 406 IPC, Police Station Civil Lines, Rohtak and which matter was still pending at the time of pendency of this application before the trial court. The applicant claimed that the respondent was working in private company and drawing salary of Rs

40,000/- per month at that time and similarly was the salary scale of his so called wife Rangini and therefore, claimed maintenance for herself at the rate of Rs 15,000/- per month besides litigation expenses.

Respondent in his stand taken claimed that the mother of the applicant was clever and characterless lady and was married to one Shyam Sunder and he was having family relations with her family and due to matrimonial dispute the couple had parted ways through judgment dated 7.9.1999 and has sought to level accusation against the lady for having deceived him of his valuable money though accepted that he was a tenant in the parental house of mother of the applicant and that the criminal case was an outcome of conspiracy by concocting a story.

The applicant examined PW1 Mukesh Chand, Record Keeper, Sessions Court Rohtak, PW2 Mahavir Singh, Clerk, B&D Department, PGI Rohtak, her mother Usha as PW3 and proved the following documents in her evidence:-

Ex. PW1/A	Certified copy of judgment dated 11.12.2008 passed in Sessions case no. 38 of 2006/2008 case titled State vs Vipin Singhal
Ex. PW1/B	Certified copy of statement of Mahabir Singh from case no. 38/2006

Ex. PW1/A	Certified copy of judgment dated 11.12.2008 passed in Sessions case no. 38 of 2006/2008 case titled State vs Vipin Singhal
Ex. PW1/C to I	Certified copies of letters from the aforesaid case
Ex. PW1/J	Certified copy of birth certificate from the aforesaid case
Ex. PW1/K	Certified copy of birth record
Ex. PW1/L	Certified copy of complaint under Section 376, 417, 420 & 406 of Indian Penal Code moved by Usha Aneja against Vipin Singla
Ex. PW1/M	Certified copy of pass book from the aforesaid case
Ex. PW1/N	Certified copy of First Information Report bearing no. 307 dated 18.5.2006, under Sections 376, 417, 420 & 406 of Indian Penal Code, Police Station, Civil Lines, Rohtak from the aforesaid case file
Ex. PW1/O	Certified copy of application moved by ASI Har Kishan for taking specimen handwriting of Vipin for DNA test moved in the aforesaid case
Ex. PW1/P	Certified copy of statement of Vipin Singal
Ex. PW1/Q	Certified copy of order dated 17.7.2006 passed in aforesaid case
Ex. PW1/R	The certified copy of statement of Ms. Manisha Batra, the then learned Additional District & Sessions Judge/Presiding Officer, Labour Court, Faridabad.

Ex. PW1/A	Certified copy of judgment dated 11.12.2008 passed in Sessions case no. 38 of 2006/2008 case titled State vs Vipin Singhal
Mark-A	Copy of transfer certificate
Mark-B & C	Photographs

The respondent testified as RW1 and proved the following documents:-

Mark-A	Copy of fee receipt dated 13.12.1996
Mark-B	Copy of complaint under Sections 376, 417, 420 & 406 of Indian Penal Code moved by Arshi alias Usha against Vipin Singhal
Mark-C	Copy of statement of PW Sanjay alias Rajiv Malik in case titled 'State v. Vipin'
Mark-D	Copy of letter dated 02.03.2004 issued by Superintendent (DE) to Vipin Singhal informing him about detail marks card of M.Sc. 4 th
Mark-E	Copy of newspaper
Mark-F	Copy of letter issued by Monika Agarwal, Manager Personal to Vipin Singhal regarding his termination from the services.
Mark-G	Copy of letter issued by Monika Agarwal, Manager Personal to Ragini regarding her termination from the services
Mark-H	Copy of judgment dated 07.09.1999 passed in Hindu Marriage Act Case no. 22 of 18.04.1998 titled Usha v. Shyam Sunder

Mark-A	Copy of fee receipt dated 13.12.1996
Mark-J	Copy of statement of Sham Sunder in case titled 'State v. Vipin'
Mark-K	Copy of character certificate of Vipin Singal
Mark-L	Copy of statement of Salochna Devi in case titled 'State v. Vipin'
Mark-M	Copy of judgment dated 11.12.2008 passed in Sessions case no. 38 of 2006/2008 titled 'State v. Vipin'
Mark-N	Copy of statement of Avnish Singhal in case titled 'State v. Vipin'
Mark-O	Copy of complaint moved by Sulochna Devi dated 31.12.1998
Mark-P	Copy of letter dated 18.06.1999 issued by learned District & Sessions Judge, Rohtak to Ms. Salochana Devi
Mark-Q	Receipt
Mark-R	Copy of telegram to respondent Vipin sent at H. No. 725/21, Kailash Colony, Rohtak
Mark-S	Copy of bio-data of Vipin Singal
Mark-T	Copy of statement of Arshi alias Usha in case titled 'State v. Vipin'
Mark-U	Copy of statement of Tara Chand in case titled as 'State v. Vipin'

Upon hearing the parties, the court of learned District Judge, Family Court, Rohtak through impugned judgment dated 18.11.2015 allowed the application of the applicant and awarded a sum of Rs 7500/- per month to the applicant for maintenance from

the date of petition besides awarding Rs 5000/- as counsel fee. The same is subject matter of this dispute before this Court.

Upon hearing Mr. Brijender Kaushik, Advocate for petitioner-Vipin Singal and Mr. Deepak Girotra, Advocate, for respondent-Hansika and perusal of the the records though respondent-father has sought to refute that the applicant was his daughter out of his relationship with Usha and as is there in the records during the trial of the criminal case the respondent had declined to undergo DNA test before the court of learned CJM Rohtak and also refused to give his specimen handwriting or blood samples and which documents are proved as PW1/O, PW1/P and PW1/Q. Thus the court below had taken an adverse presumption besides the fact the claim of the minor girl that she happens to be the daughter of the respondent could not be refuted by any tangible evidence as respondent has not examined a single witness to corroborate and support his stand and simply examined himself and none of his documents have been duly proved on the record and exhibited and are only marked documents and legitimately are no pieces of evidence and thus does not carry any weight. The applicant on the other hand has examined her mother as PW3 and the learned counsel for the petitioner-Vipin Singal could not convince this Court on any tangible evidence that has come in her cross-

examination which could be of any help to the case of the father of the minor girl. It is well established principle of law that proceedings under Section 125 Cr.P.C. are more of summary in nature quasi criminal and where stricter principles of Evidence Act are not applied. Being a provision specially enacted for the welfare of the destitute dependents, therefore, its object cannot be lost sight of by such a stand of the father who purely with a view to shrug off his statutory liability has stooped to the extent of denying the legitimacy of the child is certainly a distressing feature.

The claim that has sought to be made by the father that he has been thrown out of his service and that too his new wife was un-employed and working on her own does not cuts much ice. The court below has rightly appreciating the legislation behind the provisions of Section 125 Cr.P.C. has correctly exercised its discretion in a judicious manner. Considering the qualification of the respondent-father his emoluments at the time of the pendency has rightly awarded the maintenance which was granted way back in 2015 and which to the mind of this Court as on date is too meager an amount keeping in view that the young daughter must have grown up with increasing needs of life in view of her educational requirements and day to day necessities for which she reserves her right to seek enhancement under the relevant provisions of law. Thus, counsel for

the two sides could not convince how the amount of maintenance so awarded was unjustified either way. The impugned order certainly is correct appreciation of the law and the evidence and finding no illegality or perversity needs to be upheld. Both the petitions being devoid of merit stand dismissed.

October 10, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No