

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR (F) No. 324 of 2016 (O&M)

Date of decision : 13.7.2018

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Vikash

.....Petitioner

vs.

Sunita

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. D.S. Matya, Advocate for the petitioner

Mr. Navneet Singh, Advocate for the respondent.

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H. S. Madaan, J.

This revision petition has been filed by Vikash, feeling aggrieved by the order dated 5.9.2016 passed by District Judge, Family Court, Gurgaon, allowing petition under Section 125 Cr.P.C., filed by Sunita wife of Vikash and granting maintenance @ Rs.18,000/- per month to Sunita from the date of filing of petition observing that the payment already made by the respondent-husband as maintenance pendente lite in connected divorce proceedings between the parties, would be adjusted against the amount awarded.

The revisionist prays that the revision petition be accepted and the

impugned order be set aside and petition under Section 125 Cr.P.C. be dismissed.

Briefly stated, facts of the case are that petitioner Sunita aged about 20 years had filed a petition under Section 125 Cr.P.C. for maintenance against her husband Vikash on the averments that she was married with Vikash on 12.3.2013 at village Kadarpur Gurgaon and her family had spent approximately Rs.60 lacs on the marriage giving an Ertiga car, jewellery and other valuables. However, her husband and family members were not satisfied with that dowry articles brought by the petitioner and they used to harass and humiliate her for the said reason, demanding Rs.50 lacs and a Fortuner car. The petitioner could not get those demands fulfilled. Her husband declared that he wanted to divorce her. The petitioner had informed her parents who convened the Panchayats and for some time the matter was reconciled. The petitioner was taken back to the matrimonial home in January 2014. However, on 26.1.2014, father-in-law of the petitioner entered her room in a drunken condition and tried to molest her. The petitioner raised an alarm. Then she was beaten up by mother and sister of her husband and confined in a room and thereafter thrown out of the matrimonial home on the next day. In the petition, the petitioner has given details of maltreatment and harassment at the hands of her husband and in-laws. She had prayed for grant of monthly maintenance allowance payable by her husband, the respondent in the petition, as she is unable to maintain herself, while her husband is possessed of sufficient means for her maintenance but has neglected and refused to do so.

The petition was resisted by the respondent-husband, who in the written reply admitted the relationship of husband and wife between the parties but refuted the allegations of her maltreatment and harassment by him and his family members, rather contending that the petitioner had misconducted herself, as such she is not entitled to get any maintenance amount; that she was not in a sound state of mind, however, this fact was concealed from the respondent by the family members of the petitioner. The respondent claimed for dismissal of the petition.

The parties were afforded opportunities to lead evidence. During the course of evidence of the petitioner, she got her own statement recorded and placed on file jamabandis Exhibits P-1 to P-19.

In rebuttal respondent appeared as his own witness and placed on file copy of order dated 3.3.2016 as Exhibit R-1, copy of jamabandi for the year 2003-04 as Exhibit R-2, college fee receipt of respondent as Exhibit R-3 and copy of his Identity Card as Exhibit R-4. After hearing the arguments, the Court below allowed the petition.

Feeling dissatisfied with such judgment passed by the District Judge, Family Court, Gurgaon, the respondent has filed the instant revision petition, notice of which was given to the respondent wife, who has put in appearance, through counsel

I have learned counsel for the revisionist, learned counsel for the respondent, besides going through the record.

It is not disputed that Sunita is legally wedded wife of Vikash, so is the fact that parties are residing separately. From the

case set up by the petitioner-wife and evidence adduced by her, it comes out that she is residing separately from her husband for justifiable reasons, since while in matrimonial home she used to be harassed and maltreated by her husband and members of his family, asking her to bring more dowry articles. As per the case of the petitioner-wife, she is not possessed of sufficient means for her maintenance, as such she is unable to maintain herself.

The revisionist-husband is a young man, though according to version of the revisionist he is only a student, not doing any work and as per evidence produced by him in the form of identity card Exhibit R-4, showing that he is doing a B.Tech. course and other documents produced by him showing deposit of more than Rs.60,000/- on various occasions as fee. The revisionist contends that since he himself is not earning and is dependent upon his parents, he is not in a position to pay any maintenance to his wife. But then as the law on the subject is clear that an able bodied husband is liable to maintain his wife, who is unable to maintain herself, even though he may be a professional beggar. In the instant case, the revisionist is an educated young man. As admitted by him while appearing as his witness in the Court below, he is paying Rs.15,000/- per month as maintenance to his wife in a connected proceedings. The Court below had observed that though the respondent may be pursuing some academic course, but he is also contributing to the family funds and if it was not so, then he would not have been married and that too more than three years back. The very fact that he is depositing his annual fee after discount in the range of more than Rs.60,000/-, goes

to show that if he can afford such type of fee to pursue a professional course, that too like B.Tech., he cannot be termed as a pauper. It has further been noticed that in the Indian society, the families often remain joint even after the marriage of a grown up son and though it may not be reflected in the documents, each family member contributes to the family income in some manner, especially the young men. In light of that, the Court below has observed that the respondent belongs to a family holding considerable property and he is capable of paying maintenance @ Rs.15,000/- per month in the connected proceedings, further he had admitted that Ertiga car was gifted to him by the family of his wife and that is still in his custody, as such the family capable of incurring expenses of a farm house and gifting a luxury car to their son-in-law would not marry their daughter to a man, who has no source of income. The court has made observation that it had interacted with the petitioner on several occasions and there was nothing about her which would indicate that she was of unsound mind. A subsequent finding had been recorded that keeping in view all the facts and circumstances his minimum income could be assessed as Rs.50,000/- and the petitioner has to be maintained upto the proportionate standard. Accordingly keeping in view the facts and circumstances, the maintenance amount was awarded. The Revisionist is feeling aggrieved by that order unnecessarily. The impugned order is well reasoned one, based upon proper appreciation of evidence and correct interpretation of law and I do not find any reason to interfere with the same, while exercising the revisional jurisdiction and the same is upheld.

The revision petition is found to be without any merit and the same stands dismissed.

13.7.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes/ No
Whether reportable	Yes/ No