

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 4250 of 2017 (O&M)

Date of decision : 6.10.2018

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Vikas Jaggi

.....Petitioner

vs.

Meenu

.....Respondent

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

Present: Mr. Ranjit Singh Sidhu, Advocate for
Mr. G.S. Nahel, Advocate for the petitioner.

Mr. Shalender Mohan, Advocate for the respondent.

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H. S. Madaan, J.

This revision petition is directed against order dated 13.12.2016 passed by Chief Judicial Magistrate, Hisar. Revisionist Vikas Jaggi states that the revision petition be accepted and the impugned order be set aside.

Briefly stated, facts of the case are that petitioner Meenu, estranged wife of Vikas Jaggi had filed an application under Section 12 read with sections 18, 19, 20, 22,23 of Domestic Violence Act, 2005, against the latter in which the impugned order was passed, which for ready reference is reproduced as under:-

“Petitioner Meenu has suffered a statement that she has received entire payment from 2.6.2015 till date @ Rs.5,000/- per month totalling Rs.90,000/- which includes Rs.10,000/- deposited in the Court, Rs.22,000/- in bank and today she has received cheque bearing No. 083831 dated 20.12.2016 of Rs.58,000/- in the Court and the same is to be present in the bank on 20.12.2016. She further stated that interim maintenance be finalized and she does not claim any other relief. She also gave photocopy of her saving account number to the respondent for depositing her monthly amount in bank.

2. The respondent Vikas has also suffered a statement that he is ready to pay Rs.5,000/- per month to his wife Meenu and prayed that the same be finalized.

3. In view of the aforesaid statements of the petitioner Meenu and respondent Vikas, the present petition is accordingly allowed and respondent is directed to pay Rs.5,000/- per month as maintenance to the petitioner from the date of the present order. File be consigned to the record room, after due compliance”

The respondent – revisionist is feeling aggrieved by that order and he prays that this order be set aside.

Notice of the revision petition was given to Meenu, the applicant before the trial Court, who put in appearance through counsel.

I have heard learned counsel for the revisionist husband, learned counsel for the applicant-wife, besides going through the record and I find that the impugned order was passed on the basis of statement of revisionist Vikas that he was ready to pay Rs.5,000/- per month to his wife Meenu and had prayed for finalization of the matter. The application for grant of interim maintenance was so finalized and respondent-husband was asked to pay Rs.5,000/- per month to his wife from the date of order. It being so, the revisionist husband cannot wriggle out of that order now and try to find flaws with the order in question.

Another grouse of the revisionist is that his wife had filed a petition under Section 125 Cr.P.C. for grant of maintenance, which after contest was allowed and maintenance @ Rs.8,000/- per month has been awarded to respondent -wife vide order dated 16.8.2016 from the date of filing of the petition. According to the revisionist, once case of maintenance between the parties had already been decided finally with consent of the parties vide order dated 13.12.2016, therefore, maintenance at enhanced rate could not be granted vide order dated 16.8.2016.

Countering these contentions, learned counsel for the respondent wife submitted that the respondent wife had agreed to the

grant of interim maintenance @ Rs.5,000/- per month and had not accepted the final maintenance at that rate and further maintenance under section 125 Cr.P.C. has been granted considering all facts and circumstances including the basic needs of the respondent-wife, who was applicant in those proceedings, the earning capacity of respondent and social and economic status of the parties. Therefore, no fault can be found with that order and there was no question of any estoppel being there on the part of the respondent-wife. The petitioner does not have any case on merits.

Even otherwise, the revision petition filed by him is time barred. Though an application under Section 5 of the Limitation Act has been filed by him for condonation of delay of 243 days, in filing the revision petition for the reason that maintenance awarded by the trial Court vide order dated 16.8.2016 @ Rs.8,000/- per month was on very higher side, since Chief Judicial Magistrate, Hisar, has already granted maintenance @ Rs.5,000/- per month to the respondent vide order dated 13.12.2016. Therefore, delay of 243 days took place in filing the present revision petition.

I find that this reasoning given is least convincing and plausible and no ground is made out to condone the delay in filing of revision petition.

Section 3 of the Limitation Act, 1963 deals with Bar of Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

Therefore, the revision petition deserves to be dismissed

on the point of limitation only and in addition to that the petitioner does not have any case on merits.

Accordingly, the petition stands dismissed.

6.10.2018
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(H.S. Madaan)
Judge

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