

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision (F)- 257 of 2017 (O&M)
Date of decision : November 12, 2018

Sanjeev Gupta

....Petitioner

versus

Asha Rani and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vivek Goyal, Advocate, for the petitioner
Mr. Akshay Jindal, Advocate, for the respondents

Fateh Deep Singh, J. (Oral)

CRM-20766-2017

For the reasons mentioned in the application which is supported by an affidavit, in the interest of justice and the fact that the party should not be denied access to justice merely on hyper technicalities, delay of 73 days in filing the revision petition is condoned. CRM stands disposed of.

CRR(F)0257-2017

The essential features that are necessitated for the adjudication of this criminal revision preferred by the respondent-husband now petitioner Sanjeev Gupta against petitioner-wife now respondent and two minor children got initiated when the wife and

the children filed application for maintenance under Section 125 Cr.P.C. before the court of learned District Judge (Family Court), Karnal. It was through impugned judgment dated 23.1.2017, the court below disposed of the same thereby denying the petitioner-wife any maintenance but on the other hand awarded Rs 8000/- to each of the two children from the date of filing of the petition. The same is subject matter of challenge before this Court.

Appreciating the submissions of Mr. Vivek Goyal, Advocate, for the petitioner, Mr. Akshay Jindal, Advocate, for the respondents and perusal of the records, it is well established on the records that the marriage between the couple was solemnized on 31.1.2001 and out of which two children, Ria daughter was born on 16.1.2002 and Ujjawal son was born on 5.3.2006. Though two sides have sought to malign the opposite side for the respective acts of the opposite party for bringing about this dispute in the matrimony. However, having gone through the arguments of the two sides in detail the same are not of much consequence in the decision of the present matter though it is well established on the records that the children are minor and are school going. The claim of the wife and the children are that they are not bestowed with any property nor they have any source of income for their upkeep. The claim at the time of pendency of this petition before the court below which was in the year 2016 that the husband was employed as a teacher in a

Government School in Haryana and drawing a salary of Rs 25,000/- per month. However, the claim of the husband was that the wife is an educated person with professional degrees in Masters as well as Bachelor in Education and was earning handsomely. It has very well come in her statement that after completing her education she had secured a job in Public School as a teacher in the year 2006 but after the filing of the present petition she has resigned and at the time of her appearance in Court was without any earnings.

It is not in any manner argued on behalf of the wife as to the denial of her right to maintenance which has been declined by the court below and the only moot point that has rallied between the parties is the very quantum of the same qua the then minor children. It is their in the evidence between the parties that at the time of pendency of the petition before the learned Family court, petitioner no. 2 Ria was studying in 9th class and petitioner Ujjawal was studying in 4th class and therefore, is in itself suggestive of the fact that they were school going and that too in a good Public School. The husband accepts in his stand that he had secured a government job. The faint opposition that has been sought to be made on behalf of the petitioner by his counsel to the impugned finding has been well countered by the counsel for the respondent that it is there in the evidence of the husband that father of the husband was a retired government servant and therefore, certainly he and his wife are

independent and cannot be by any means said to be dependents on their son, the present petitioner. The husband admits that his salary was approximately Rs 35,000/- at the time of pendency of the petition and which by now must have undergone an increase. His stand and so the arguments of his counsel that the husband has secured a loan from the bank and is supposed to repay the same does not cuts much ice as it is the total earning and income which is to be seen and such like deductions are not taken note of by the Court. The court below has given a well reasoned finding appreciating each and every aspect of the matter and it has been concluded by the court below that as per the stand of the wife it was during the pendency she has resigned and therefore, carries a deliberate and mischief act on her part for a motivated cause. The court has rightly assessed that out of Rs 35,000/- per month, the salary of the husband, the children keeping in view their educational needs and other necessities of life and roof on their head, unforeseen events including special diet etc. has come to a justifiable conclusion that each of the two kids is entitled to Rs 8000/- per month having regard to the astronomical increase in the prices of day to day commodities. It can not be accepted in the light of the arguments of the counsel for the petitioner that same is on the higher side. The impugned findings are correct appreciation of the evidence and the stand of the parties and does not call for intervention by the Court. The counsel for the

petitioner could not pin point any illegality or perversity in the impugned findings. The same needs to be upheld. The revision petition being hopelessly without any merits stands dismissed.

November 12, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No