

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision(F)-341-2017 (O&M)
Date of Decision: 20.3.2018

Sube Singh

.....Petitioner

Versus

Banarsi Devi

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ram Bilas Gupta, Advocate
for the petitioner.

Mr. Johan Kumar, Advocate
for the respondent.

ANITA CHAUDHRY, J

CRM-10125-2018

Application is allowed and Anneuxre R-1 to R-5 are taken on record.

CRR(F)-341-2017

The petitioner has assailed the order dated 02.8.2017 passed by the Family Court, Faridabad vide which he has been directed to pay interim maintenance of Rs. 7,000/- per month along with litigation expenses of Rs. 5,000/-.

The petitioner is stated to be over 70 years of age. He was married to the respondent in 1963. They had six children and one of them had died. The wife is living with two sons, one son is with the father.

A petition under Section 125 Cr.P.C. was filed in November and it was pleaded that the husband used to work as a Civil Contractor but

presently he was working with his son Anil in his firm and was earning Rs. 40,000/- per month. It was pleaded that the husband had a shop in Nahar Singh Colony, Ballabgarh and he was getting rent of Rs. 2000/- per month and rent of Rs. 6,000/- from the first floor of the house situated in Sector-3, Faridabad.

The wife also claimed that she had no income except the old age pension from Haryana Government which was not sufficient for her needs.

The husband in his reply Annexure P-6 pleaded that the house in which the wife was living, was his self acquired property. It was denied that he was earning Rs. 40,000/- per month. It was pleaded that the wife owned an industrial shed which had been let out for Rs. 50,000/- per month and she was retaining the entire rent and she was getting Rs. 10,000/- from the tenant in the house in Sector-8, Faridabad. It was pleaded that the industrial shed was purchased by his son Anil in the name of the petitioner (respondent here) and she had sufficient funds.

The trial Court considered the pleadings and held that the veracity of the documents was yet to be tested and the wife was 65 years old and it was the duty of the husband to maintain her. It allowed Rs. 7,000/- per month as interim maintenance besides litigation expenses.

I have heard the counsel for the parties.

Counsel for the petitioner contends that the petitioner is 70 years old and has no income and he is not working and the wife has concealed facts from the Court and had not disclosed that she was living in the house purchased by the petitioner from his funds in her name. It was urged that the petitioner was beaten up and they have placed on record the

photographs. It was contended that the electricity bill of the industrial shed is in the name of the wife and she is getting rent and it is a case of concealment. The petitioner has placed on record copy of the sale deed while the respondent has placed on record the transfer deed to show that Banarsi Devi has transferred the property in favour of her son in September 2015.

The submission on behalf of the respondent is that the husband had sufficient funds and their submission gets fortified from the fact that he had given a cheque of Rs. 3.00 lacs and was dealing in mutual funds. The counsel also refers to the accounts statement and urges that a sum of Rs. 96,000/- is lying in the account of the husband.

Coming to the statement of accounts Annexure R-2. There was a deposit of Rs. 26,000/- on 24.11.2016. After that there are few deposits in the range of Rs. 1,000/-. The bank statement does not show that regular income is being deposited in the account. With respect to the cheque of Rs. 3.00 lacs it was explained by the counsel for the petitioner that the cheque was dishonoured on account of sufficient funds. The letter written by authorized signatory of SBI is also available on the record.

The parties are yet to lead their evidence. The respondent is living with her two sons who are major and earning. The respondent is also living in the house which was acquired by the husband. There is an industrial shed which had been allegedly purchased by the husband in 2008 which the wife has now transferred in favour of the son living with her. The respondent has not disclosed these facts in the pleadings. At present, there is no evidence from the side of the respondent to show that the petitioner was earning or had regular income.

The petition is allowed. The impugned order dated 2.8.2017 passed by the Court below is set aside.

However, it is made clear that nothing contained herein would be taken as an expression finally as on merits and the issue would be determined on the basis of the evidence which would be led by the parties.

(ANITA CHAUDHRY)
JUDGE

March 20, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No