

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR(F)-40-2017(O&M)
Date of decision:-9.8.2018

Ravinder Singh

...Petitioner

Versus

Vimmi Singh @ Vimal Shahi

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Petitioner in person with
Mr.Ram Bilas Gupta, Advocate.

Respondent in person with
Mr.Rajiv Sharma, Advocate.

H.S. MADAAN, J.

CRM-3840-2018

For the reasons mentioned in the application, the same is
allowed and the main petition i.e. CRR(F)-40-2017 is preponed for today.

CRR(F)-40-2017

Petitioner Ravinder Singh has filed the instant revision
petition feeling aggrieved by order dated 17.10.2016 passed by District
Judge, Family Court – II, Faridabad granting interim maintenance to the
tune of Rs.40,000/- per month and Rs.11,000/- as litigation expenses to
his wife Vimmi Singh @ Vimla Shahi payable by him.

Briefly stated, facts of the case are that Vimmi Singh @ Vimla Shahi aged about 50 years wife of Ravinder Singh had brought an application under Section 125 Cr.P.C. against the latter seeking grant of monthly maintenance allowance, notice of which was given to respondent, who put in appearance. During the pendency of such proceedings, she moved an application for grant of interim maintenance, which though resisted by respondent – husband was accepted by the trial Court vide order dated 17.10.2016 and interim maintenance at the rate of Rs.40,000/- per month was allowed to applicant Vimmi Singh @ Vimla Shahi payable by her husband Ravinder Singh – respondent.

Respondent Ravinder Singh is feeling aggrieved by the said order and as such had filed the present revision petition, notice of which was given to Vimmi Singh @ Vimla Shahi, who put in appearance through counsel.

I have heard learned counsel for the parties and I do not find any merit in the revision petition.

The operative part of the impugned order is in para No.6, which for ready reference is being reproduced as under:

At the out-set, it is important to mention that both the parties were directed to file detailed affidavits regarding their qualification, occupation, income, assets, liabilities, etc. The respondent did not file any such affidavit. The respondent has admitted that he is carrying on the business of supplying Drones to Indian Government. He has also admitted having agricultural land and his earning of around

Rs.7,00,000/- per annum from the agricultural land. He has further admitted having a flat in Safdarjang area, New Delhi. In para 19 of the petition, the petitioner has specifically mentioned that the respondent is having a Mercedes car. This fact has not been specifically denied by the respondent in his written statement. The petitioner relied upon Vijay Kumar's case (supra) in which the Hon'ble High Court directed the husband to pay 50% of his gross salary to the wife after deducting income tax as the wife had to support two minor school going children while husband had to support his father. This authority is not applicable to the facts of the case. The present case is slightly on a different footing as in the present case, the husband is taking care of two grown up daughters, who are pursuing higher studies. It has been mentioned in the written statement that the respondent is shelling out huge amount towards education expenses of the daughters. He has liability of his old aged mother. There is no document on record showing income of the respondent. There is no option with the court but to indulge in guess work in this regard. From the facts and circumstances of the case, it is assessed that the respondent must be having income of Rs.1,00,000/- to Rs.1,50,000/- per month. Hence, interim maintenance of Rs.40,000/- per month is granted to the petitioner from the date of filing of the application. The respondent is also directed to pay Rs.11,000/- as litigation

expenses to the petitioner. The application stands disposed of.

The trial Court while giving the interim maintenance has taken into consideration all the relevant factors including the fact that respondent had not filed any affidavit with regard to his qualification, occupation, income assets, liability etc. despite a specific direction having been issued to both the parties to do so. However, he had admitted that he is carrying on the business of supplying Drones to Indian Government and he owns agricultural land, earning Rs.7 lakhs per annum therefrom and he was having a flat in Safdarjung area, New Delhi. He had not denied the contention of petitioner that he is having a Mercedes car. The Court below has taken into consideration the fact that husband is taking care of two grown up daughters, who were pursuing higher studies and he has got liability towards his old aged mother. The trial Court has observed that there being no document on record showing income of respondent, it was left with no option but to indulge in guess work and monthly income of respondent was assessed to be Rs.1,00,000/- to Rs.1,50,000/- thereby granting interim maintenance of Rs.40,000/- per month to the applicant from the date of filing of the application, besides Rs.11,000/- as litigation expenses.

The probable income of respondent assessed by the trial Court cannot be said to be arbitrary or exorbitant keeping in view the fact that the respondent is engaged in business of supplying Drones to Government of India and has got agricultural income of Rs.7 lakhs per annum besides owning a flat in a posh area of New Delhi and maintaining

a Mercedes car. The wife is definitely entitled to the living standard of her husband. In this time of high prices where when even things of the basic needs are getting very costly, interim maintenance granted at the rate of Rs.40,000/- per month cannot be said to be on higher side, in view of monthly income of respondent assessed by the trial Court. Though in the revision petition, the revisionist has raked up several pleas, which go to the merits of the case and shall be adjudicated upon during the trial. These factors are not much material while determining the entitlement an estranged wife to interim maintenance.

I find that law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it. The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order.

Therefore, the revision petition stands dismissed.

9.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No