

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

CRR(F) No.45 of 2018 (O&M)
Date of Decision: February 12, 2018

Jaskirat Kaur

...Petitioner

Versus

Sukhdeep Singh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Surinder Garg, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant criminal revision has been filed against the impugned order dated 26.10.2017 whereby, the application for grant of interim maintenance filed by the petitioner-wife in a petition under Section 125 Cr.P.C. has been dismissed by the District Judge, Family Court at Faridkot.

In brief, the petitioner-wife herein has filed an application for interim maintenance under Section 125 Cr.P.C. against the respondent-husband, alleging therein that after her marriage with the respondent on 28.01.2015, the respondent and his other family members were not happy with the dowry articles of the petitioner and started passing comments to the petitioner for bringing less dowry. Due to the above said reason, on 17.03.2015, the brother of the petitioner and her maternal uncle took her

with them to her parental home in three clothes. Thereafter, the father of the petitioner and her maternal uncle convened a Panchayat, but the respondent and his family members were not ready to take her back. It was further alleged that the petitioner has no source of income.

The respondent-husband herein has contested the application and filed reply thereof, while denying the allegations levelled in the petition and raising objection with regard to the territorial jurisdiction of the court to entertain the petition.

After hearing learned counsel for the parties, the learned trial court by the impugned order dated 26.10.2017, dismissed the petition for want of territorial jurisdiction. Aggrieved against the said order, the instant petition has been filed by the petitioner-wife.

Learned counsel for the petitioner contends that when the respondent-husband refused to take her back to her matrimonial home, the petitioner herein started residing with her maternal uncle at Village Doad, District Faridkot and started studying at Dev Samaj College, Ferozepur. It is argued that the petitioner has proved on record that at the time of filing the application, she was residing with her maternal uncle at Village Doad, District Faridkot. It is contended that the learned trial court has acted with material illegality and irregularity in the exercise of its jurisdiction, therefore, the impugned order is liable to be set aside.

I have heard learned counsel for the petitioner and perused the record of the case.

While passing the impugned order dated 26.10.2017, the learned trial court has observed as under;

“.....From the various documents produced on file, which are admitted documents, it is apparently shown that even after filing of this petition, applicant shown herself to be resident of District Ferozepur. Admittedly, marriage between the parties was solemnized within the jurisdiction of District Sri Muktsar Sahib. Respondent is also resident of village Khunan Kalan, District Sri Muktsar Sahib. Applicant herself is resident of village Kohar Singh Wala, District Ferozepur. The parties never resided together within the jurisdiction of this court. Even from the documents produced on file, it is apparently shown that even after filing of this petition, applicant shown herself to be resident of village and post office Kohar Singh Wala, Tehsil Guru Harsahai, District Ferozepur. From other documents produced on file, which are the documents of applicant i.e. application filed before the police for registration of case under section 498-A, 406 etc. IPC, applicant shown herself to be resident of village Kohar Singh Wala, District Ferozepur. Even during enquiry of the said complaint, applicant got recorded her statement with the police, wherein she has again shown herself to be resident to District Ferozepur. During trial of the said case, applicant got recorded her statement on 23.11.2016 before the learned Sessions Judge, Ferozepur, wherein she again got recorded that she is resident of Village and Post Office Kohar Singh Wala, Tehsil Guruhar Sahai, District Ferozepur. She filed this petition for maintenance on 3.10.2016 i.e. prior to her statement recorded before the Learned Sessions Judge, Ferozepur. There is not even a single document produced by the applicant, wherein she is shown to be resident of District Faridkot. The matriculation

certificate produced by the applicant does not show that she is resident of District Faridkot. The sale deed in favour of maternal uncle of the applicant also does not prove this fact that applicant is resident of District Faridkot. Thus, she has failed to produce n record even a single document showing her even temporary residence at Village Dod, P.S. Sadiq, District Faridkot. Even prior to filing of this present petition and even after filing of present petition, she has been showing herself to be resident of District Ferozepur. There, this court at Faridkot has no territorial jurisdiction to entertain this petition and the court cannot grant any interim maintenance to the applicant. The applicant is advised to file petition for maintenance before the court having territorial jurisdiction, as per law.....”

Section 125 of Cr.P.C. provides for order for maintenance to the neglected wives, children and parents, who are unable to maintenance themselves.

Section 126 of Cr.P.C. provides for the procedure, where proceedings under Section 125 Cr.P.C. may be instituted by the aggrieved person. Section 126 Cr.P.C. reads as under;-

“Procedure. (1) Proceedings under section 125 may be taken against any person in any district-

- (a) where he is, or*
- (b) where he or his wife, resides, or*
- (c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.”*

So, Section 126 Cr.P.C. makes it clear that proceedings under Section 125 Cr.P.C. may be instituted at a place, where the person against

whom the proceedings have to be initiated is residing, or he or his wife resides, or where he last resided with his wife.

An argument has been raised by counsel for the petitioner that after the dispute arose between the parties, the petitioner started residing with her maternal uncle at Village Doad, District Faridkot, therefore, the courts at Faridkot has jurisdiction to entertain the matter.

In the case in hand, the petitioner-wife instituted the proceedings under Section 125 Cr.P.C. claiming that she is residing at Village Doad, P.S. Sadiq, District Faridkot, with her maternal uncle. It is clear from the record that marriage between the parties was solemnized within the jurisdiction of District Sri Muktsar Sahib, the husband of the petitioner i.e. respondent herein is resident of Village Khunan Kalan, District Sri Muktsar Sahib and the father of the petitioner herein is resident of Village Kohar Singh Wala, District Ferozepur. Further, the parties never resided together within the jurisdiction of the court at Faridkot.

In the instant criminal revision, as per the stand of the petitioner, she is now studying at Dev Samaj College, Ferozepur, however, she is daily doing up and down from Ferozepur to Village Doad, District Faridkot i.e. where her maternal uncle is residing and it is on this ground, she is claiming that the courts at Faridkot has jurisdiction to entertain her petition under Section 125 Cr.P.C. Even if for the sake of arguments, it is assumed that the petitioner herein is residing with her maternal uncle at Faridkot, however, even after filing of the petition under Section 125 Cr.P.C. on 03.10.2016, she shown herself to be resident of Village Kohar Singh Wala, District Ferozepur i.e. where the father of the petitioner is

residing. The petitioner herein had filed an application for registration of a case under Sections 498-A, 406 etc. of Indian Penal Code, showing herself to be resident of Village Kohar Singh Wala, District Ferozepur. Even during the enquiry of the said complaint, she again shown herself to be resident of Village Kohar Singh Wala, District Ferozepur. More so, during the trial of the said case, while giving her statement on 23.11.2016, she mentioned that she is resident of Village Kohar Singh Wala, District Ferozepur. Under these circumstances, when even after filing of the petition under Section 125 Cr.P.C., the petitioner is repeatedly showing herself to be resident of Village Kohar Singh Wala, District Ferozepur, by any stretch of imagination, it cannot be said that the courts at Faridkot have jurisdiction to entertain the petition under Section 125 Cr.P.C.

In view of the foregoing discussion, this court is of the considered view that there is no illegality of irregularity in the impugned order so passed. Accordingly, the instant criminal revision is hereby dismissed, being devoid of any merits.

February 12, 2018

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No