

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

**CRM M-13344-2018 (O&M)
Date of Decision : 13.02.2019**

Ravinder Kumar

..... Petitioner

Versus

Sunaina alias Kimi

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Vaibhav Mittal, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner has preferred the instant petition under Section 482 Cr.P.C. for quashing of order dated 17.01.2018, passed by the learned Addl. Sessions Judge, Amritsar vide which the order dated 10.03.2011, passed by the learned Judicial Magistrate Ist Class granting maintenance for a sum of Rs.3,000/- per month to respondent-Sunaina alias Kimi (minor), daughter of the petitioner, has been upheld.

The respondent-minor filed an application for grant of maintenance through her mother which was partly allowed and she was granted maintenance at the rate of Rs.3,000/- per month.

The petitioner has placed reliance upon the written agreement effected between the parties. This court would like to reproduce the entire agreement as under:-

“We Ravinder Kumar, aged 27 years, son of Shri Ajit Kumar, resident of H.No.331/10, Ward No.10, Mohalla Patti, Tehsil Patti, District Tarn Taran as First party and Smt. Gurjit Kaur, Aged 25 years, daughter of Shri Balwinder Singh, resident of Village Pandher Kalan, Tehsil and District Amritsar as

second party. That our marriage was solemnized around 3 years ago as per the religious rites and rituals in the presence of relatives and family members and most of the time after the marriage, we both parties are facing disputes towards each other. Due to which, there is no love like husband and wife lying between us. We don't want to spend our lives like this. Therefore, we both the parties with our mutual consent and in the presence of our parents and respectable have decided and are writing the same through this agreement that from today, no relation of husband-wife will be continue between both of us and we are ending our relationship of husband-wife through the present agreement. We both the parties are deciding can solemnized his/her second marriage at any time and at any place. Nobody will have any objection qua the same and during the marriage whatever the dowry articles and other gifts which have been given between the parties have returned back to the each other. There is no due pending towards anyone. We both the parties will not pursue any criminal or civil litigation against each other. That due to our wedlock, we have a girl child namely Kimmi, who will stay in the custody of her mother i.e. second party Gurjit Kaur and the second party i.e. Gurjit Kaur will be answerable for all the responsibilities of her. We are taking this decision through the present agreement in our complete senses and in the presence of our legal hair. The written agreement has written, so can be used as evidence. Dated 03.03.2008.”

Thereafter, a petition under Section 13-B was filed where Smt.

Gurjit Kaur, wife of the petitioner suffered the following statement:-

“I am ready to return the amount of Rs.3,27,000/- to the petitioner which was received by me my maintenance in lump-sum in the court on the date fixed and I am ready to reside with the petitioner in his house being his legal wedded wife. Till disposal of the present petition. I will not enforce the execution for maintenance filed by me u/s 125 Cr.P.C. which

is pending in the court of Sh. Amardeep Singh, JMIC, Amritsar, for 24.02.2013, titled as Gurjit Kaur vs. Ravinder Singh.”

A bare perusal of statement (Annexure P-2) of Smt. Gurjit Kaur, wife of the petitioner transpires that an amount of Rs.3,27,000/- was paid to her as maintenance in lump-sum but this amount has nothing to do with the minor-respondent. It is claimed that Smt. Gurjit Kaur, wife of the petitioner, had owned the responsibility to look after the minor but to the mind of this court, these facts, as mentioned in the last paragraph of the written agreement (Annexure P-1), are not sufficient to disentitle the respondent-minor from maintenance.

In view of aforesaid, this court is of the opinion that the impugned orders passed by the courts below do not suffer from any illegality, infirmity or irregularity and the same do not call for any interference and are hereby affirmed.

Therefore, finding no merit in the instant petition, the same is hereby dismissed.

13.02.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No