

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**Criminal Misc. No. M-17467 of 2016
Date of decision : February 27, 2019**

Rajinder Singh

....Petitioner

versus

Sawaranjit Kaur @ Maninder Kaur and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. C.K.Singla, Advocate, for the petitioner

Mr. Darshan Gulati, Advocate, for the respondents

Fateh Deep Singh, J. (Oral)

Sawaranjit Kaur alias Maninder Kaur wife and Jasmeet Kaur minor daughter preferred against Rajinder Singh husband and father respectively of the applicants, an application under Section 125 of the Code of Criminal Procedure seeking grant of maintenance.

The brief grounds canvassed are that Sawaranjit Kaur alias Maninder Kaur was legally wedded wife of respondent Rajinder Singh and their marriage took place on 4.12.2002 and out of which Jasmeet Kaur was born on 19.4.2004. The applicant wife has levelled allegations against respondent husband of cruelty, harassment, demand of dowry

including cash claiming that the husband had undergone another marriage on 13.7.2007 during the subsistence of the first marriage regarding which a criminal case has already been lodged against the husband which is pending claiming that the husband has failed to undergo his obligations arising out of this relationship and hence the petition. She has claimed that the husband is cultivating his 9 acres of agricultural land earning more than Rs 5 lacs per annum besides running a dairy farm from which he has sizeable income and thus claimed that the husband is earning Rs 20,000/- per month and sought maintenance commensurate with this status of the husband.

The husband in his stand though admitted the inter-se marriage and the birth of the child out of the wedlock but denied that he ever ill-treated the wife or raised any demand and denied that he owns any agricultural land or has any income and claimed that he was earlier serving in the Army but on account of his conviction in case lodged by the wife under Section 406, 498 etc. IPC he has been thrown out of the job and was thus unemployed and therefore, unable to pay maintenance.

The wife testified as PW1 and reiterated the case and proved documents Ex. C1, jamabandi for the year 2008-09, Ex. C2 report under Section 173 Cr.P.C., Exs. C3 to C5 original receipts of the school fees of the child, Exs. C6 to C7 original bills of school dress, Ex. C8 bills of school books and Ex. C9 receipt of Auto Rickshaw and

thereafter closed the evidence.

On the other hand the husband stepped into witness box as RW1 rebutting the case of the wife and closed his evidence.

The court of learned Judicial Magistrate 1st Class, Patiala vide orders dated 6.11.2015 allowed Rs 3500/- per month as maintenance to the wife and Rs 1000/- to the child besides Rs 5000/- as litigation expenses.

Aggrieved over these findings, the husband challenged the same in the criminal revision. The court of learned Additional Sessions Judge, Patiala through impugned findings dated 14.3.2016 disposing of the revision of the husband and that of the wife and the daughter partly allowed the revision of the wife and daughter enhancing maintenance of the daughter to Rs 2500/- per month from the date of the petition and dismissed that of the husband. The same is being challenged in this petition under Section 482 Cr.P.C. by the husband.

Appreciating the submissions, the husband admits that he was earlier serving in Indian Army and therefore, must have been getting salary prior to his conviction and throwing out of the service and for which must have also received his emoluments which have accumulated over a period of time. The unrebutted document Ex. C1 shows that the husband owns agricultural land and thus by all means must be earning out of it as has been canvassed at the bar by the counsel for the petitioner. He is presently working in a Gurudwara and

therefore, must be having sufficient means to up-keep and maintain himself and therefore being an able bodied person owning immoveable property and earning from his present employment as well is under legal obligation to maintain his wife and minor daughter. The court below in the impugned findings has rather drawn the conclusion that the respondent husband has failed to lead any evidence to prove that the petitioner wife has left matrimonial home without sufficient cause and rather has drawn inference that it is because of the husband contracting second marriage and thus leaving the dependents in a lurch holding that the husband has never tried to reconcile the matter or bring back the dependents to the matrimonial home. The husband has admitted the fact in his cross-examination as RW1 that he used to get handsome salary in the Army and that by his subsequent employment with the Gurudwara and earning from his land is certainly under an obligation to maintain the wife and has considered that the amount so awarded to the daughter was on the lower side as she is minor growing up child requiring money for her upkeep maintenance as well as future studies and has rightly enhanced the sum from Rs 1000/- to Rs 2500/- per month and keeping in view the exigencies has rightly allowed the maintenance from the date of the petition. The provisions of Section 125 Cr.P.C. are welfare in nature for the upliftment of the dependents to prevent destituteness and vagrancy. The husband is able bodied person and therefore, owning property and getting salary from his

avocation is certainly a circumstance which casts upon the respondent a duty to maintain the wife and the minor daughter. Counsel for the petitioner could not convince by any means how the findings arrived at were in any manner illegal in its approach and necessitates intervention by this Court. Neither there is any illegality much less any perversity in its findings and therefore, the petition being hopelessly without any merit stands dismissed.

February 27, 2019
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>