

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-19533 of 2018

Date of Decision: 26.08.2019

Amit Kumar Verma

...Petitioner(s)

Versus

Kiran Verma

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Sanjay Verma, Advocate
for the petitioner.

Mr. Vishva Nath Sharma, Advocate
for the respondent.

HARI PAL VERMA, J.

Petitioner – Amit Kumar Verma has filed the present petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 26.03.2018 passed by learned Sessions Judge, Yamuna Nagar at Jagadhri (Annexure P-6), whereby, the interim maintenance awarded by Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri, vide order dated 08.11.2017 (Annexure P-5), has been enhanced from Rs.7,000/- per month to Rs.12,000/- per month. As per order dated 08.11.2017, learned Judicial

Magistrate 1st Class, Yamuna Nagar at Jagadhri had directed the petitioner to pay interim maintenance @ Rs.7000/- per month to the respondent - Kiran Verma and her minor child.

Briefly stated the marriage between the parties was solemnised on 02.10.2008 and out of this wedlock, a son namely Lovanya was born to them, who is about 7½ years of age. It was alleged that the attitude of the petitioner towards his wife was not good. Even the family of the petitioner was a greedy type of persons. They started harassing the respondent for bringing less dowry. The petitioner indulged in bad habits like drinking and gambling etc. and used to spend all his money and time on these bad habits. Under the influence of liquor, the petitioner used to beat the respondent. She was often taunted by his family members. Earlier also, the respondent had filed petition under section 125 Cr.P.C. but the same was withdrawn on 11.09.2014, as the matter was compromised and the parties were reunited and started staying together at their matrimonial home. However, on 30.09.2016, when father of respondent retired from Government department and sufficient amount was released to him towards his retrieval dues, the greed of the petitioner-husband once again arose and he demanded Rs.10 lakhs from the father of the respondent. But, when the said amount was declined to him, he threw the respondent out of her matrimonial home along with her minor child on 02.11.2016. Since then, the respondent was residing with her parents. While the petition under Section 125 CrPC was pending, the respondent-wife moved an application for grant of interim maintenance, which was allowed by Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri vide order dated 08.11.2017, granting

interim maintenance @ Rs.7000/- per month to the respondent and her child.

Still not satisfied with the interim maintenance, the respondent-wife filed a revision petition against the order dated 08.11.2017, pleading therein that the petitioner-husband is employed as a Government teacher and earning Rs.25,000/- per month and the awarded maintenance of Rs.7,000/- per month to her and her child is a too meager an amount, particularly when the expenses being borne on the tuitions fee and transportation etc. of the child alone are to the tune of Rs.3700/- per month. Learned Sessions Judge, Yamuna Nagar at Jagadhri vide order dated 26.03.2018, allowed the revision petition and directed the petitioner to pay maintenance @ Rs.12,000/- per month instead of Rs.7000/- per month as awarded by learned Magistrate vide order dated 08.11.2017.

It is in these circumstances, the petitioner-husband has filed the present petition challenging the order dated 26.03.2018 (Annexure P-5).

Learned counsel for the petitioner has argued that both the Courts below have wrongly and illegally allowed the application for interim maintenance without any evidence available on record. It is respondent-wife who herself had left the company of the petitioner without any plausible reason. The petitioner had even filed a petition under Section 9 of the Hindu Marriage Act for Restitution of Conjugal Rights, stating therein that the respondent is a quarrelsome lady and from the very beginning of the marriage, she had started quarrelling with the petitioner and his parents on petty matters without any reason. When the son of the petitioner was just two years old, the respondent and her parents

pressurized the petitioner to reside separately from his parents, in spite of the fact that mother of the petitioner was seriously ill. The petitioner was left with no other option, but to reside separately in a rented accommodation at Village Khijrabad. But still, the respondent was not happy and did not mend her behaviour towards the petitioner and his family members. One day she took away all valuable jewellery and clothes to her parental house. When she did not turn up even after one month, the petitioner was constrained to file a petition under Section 9 of the Hindu Marriage Act against the respondent. The petitioner was working as a Guest Teacher. Due to continuous misbehaviour of the respondent towards his parents, the petitioner was even disowned by his parents. The notice disowning the petitioner was also published on 23.11.2013. The respondent is otherwise a well-qualified lady having done her MA. B.Ed. and earning Rs.20,000 per month from tuitions. On the strength of document dated 27.02.2018, Annexure P-7, which is an information obtained under Right to Information Act, whereby the respondent has been paid unemployment allowance, it has been argued that awarding of interim maintenance @ Rs.12,000/- per month is on higher side. Therefore the order dated 26.03.2018 is liable to be set aside.

On the other hand learned counsel for the respondent has argued that apart from the fact that the petitioner is working as a Guest Teacher, he also works in the shop of his father, who is running a jewellery shop, after his working hours. He has referred to a pamphlet Annexure R-7, which refers to Jagdamba Jewellers, Main Bazar, Buria, District Yamuna Nagar, wherein the name of father of the petitioner is duly mentioned.

I have heard learned counsel for the parties.

There is no such material on record, which may show that the petitioner has ever challenged the order dated 08.11.2017 (Annexure P-5) passed by Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, whereby interim maintenance was granted to the respondent at the rate of Rs.7000/- per month. Rather, it is the respondent-wife, who was not satisfied with the said awarded amount and therefore, she filed a revision petition seeking modification of the interim maintenance awarded by learned Magistrate. Therefore, so far as challenge to the order passed by the Magistrate through this instant revision petition is concerned, this Court finds that the petitioner cannot challenge the said order, as the said order was never challenged by the petitioner before the revisionary Court. Thus the limited dispute, which can be considered before this court is enhancement of interim maintenance from Rs.7,000/- per month to Rs.12,000 per month.

It being a matrimonial dispute between the parties, the matter was referred to the Mediation and Conciliation Centre of this Court vide order dated 06.02.2019, but the parties could not resolve the same.

Considering the fact that the petitioner is working as a Guest Teacher and getting salary of Rs.25,000/- per month, this Court finds that modification in the monthly interim maintenance to tune of Rs.12,000/- per month by the revisionary Court is in consonance with the income of the petitioner, particularly when the respondent is none else than his own wife, who has no independent source of income and further, she is taking care of her minor child, whose tuitions fee and transportation only is to the tune of

Rs.3,700/- per month. Merely because the respondent-wife is well qualified, does not mean that she is an earning hand, particularly when she is taking care of the minor child also. Furthermore, the father of the petitioner is a retired Government employee and must be drawing pension and apart from running a Goldsmith shop, which is shown in the pamphlet, Annexure R-7. The parents of the petitioner are not dependent upon him. Moreover, the maintenance so awarded by the Courts below is interim in nature. No such evidence has been brought on record by the petitioner-husband, which may justify interference with the impugned order dated 26.03.2018 passed by the revisionary Court.

Keeping in view the totality of the facts and circumstances, the social strata to which the parties to litigation belong, their respective means, prevalent inflation, rising price index, rising prices of the bare necessities of life like food, shelter, clothing, medical expenses and other unforeseen contingencies, this Court is of the opinion that the revisionary Court has considered the claim of respondents in right perspective and therefore, no interference is warranted by this Court.

Accordingly, the present petition is dismissed.

August 26, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No