

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

CRM-M No.20704 of 2017

Date of decision: 6th September, 2019

Vikas Madan

... Petitioner

Versus

Harshita @ Ruchi & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sanjeev Kumar, Advocate for
Mr. Munish Puri, Advocate for the petitioner.
Mr. S.P. Chahar, Advocate for the respondents.

FATEH DEEP SINGH, J.

This is a challenge to an order dated 06.05.2017 passed by the Court of learned Additional Sessions Judge, Rohtak in Criminal Revision whereby modifying the orders dated 16.01.2015 of the Court of learned Judicial Magistrate 1st Class, Rohtak, the amount of maintenance allowance has been enhanced from ₹ 2,500/- per month to ₹ 5,500/- per month in respect of the respondent wife whereas the amount of ₹ 2,500/- per month so awarded to the minor son has remained unchanged.

Upon hearing Mr. Sanjeev Kumar, Advocate appearing on behalf of Mr. Munish Puri, Advocate for the petitioner, Mr. S.P. Chahar, Advocate for the respondents and on perusal of the records.

Marriage between Harshita alias Ruchi respondent No.1 and Vikas Madan present petitioner was admittedly solemnized on 27.11.2003, out of which a male child Sai was born to the couple. It is on

account of matrimonial dispute, the wife claims that on 30.06.2008 she along with the child was thrown out of the matrimonial home.

It is the claim of the wife that the husband is running a business dealing in optical lenses earning ₹ 30,000/- per month, besides owning moveable and immovable assets. To counter the same, husband in his stand has taken the plea that the wife is working as a teacher besides taking tuitions and is earning handsomely and thus, is not entitled to any compensation. The wife examined herself as PW1 and reiterated her stand taken in her affidavit Ex.PW1/A and examined her father Jagdish Lal as PW2. The husband testified as RW1 and thereafter, the Courts below had passed these two orders on account of which the present petition has come about by the husband.

The husband initially had admitted his avocation but has tried to wriggle out of it by saying that on account of matrimonial disaccord he has left the business. As is there in the arguments, no doubt the wife is unable to place on record any documentary proof of the earnings of the husband but at the same time, the claim of the husband that the wife is a school teacher and also giving tuitions is not at all supported by any legal means, orally or documentarily. Having regard to the fact that the wife does not have any income nor has any movable or immovable property for support and is to look after and maintain her minor son, a school going kid, and being a welfare legislature for the betterment of the destitute, it is the obligation of the husband, who admittedly is an able

bodied person carrying on business when the couple was living together, and is supposed to look after and maintain the wife and the minor child commensurate with his social status and to ensure that the child gets education as per the status of the family. The learned Additional Sessions Judge has taken note of this settled proposition of law that it is the obligation of the husband to maintain the wife and the minor kid and has rightly concluded that it is social, moral and legal duty of the husband to maintain and look after the wife and the minor child.

Keeping in view the rising trend of prices and the price index now-a-days, the Court taking into consideration that the husband is educated, running a business and that it is also necessitated to educate the child as well as to upkeep the wife and the minor son, by some amount of guess work and hypothetical calculations, has drawn the conclusion that the wife is entitled to ₹ 5,500/- per month whereas the child is entitled to an amount of ₹ 2,500/- per month as maintenance from the date of filing of the maintenance application under Section 125 Cr.P.C. To the specific query of the Court, learned counsel for the revisionist could not convince how such an amount is on the higher side necessitating its challenge before this Court, when it is a matter of common knowledge that with such a pittance it is highly difficult in this modern era to make both ends meet. This Court being alive to the stark realities of the life and taking note of the fact that the husband, by such an invocation, is trying to make the wife and the kid run for their money and for which the present

petition has come about, is a surreptitious ploy in hiding his avocation and earnings from the Court, shows that the stand of the husband is not bona fide and even the maintenance so awarded vide impugned order can by no means termed to be unjust or on the higher side and rather is on the lower side.

Finding the present petition to be a misuse of the process of the Court, this Court exercising its inherent jurisdiction deems it appropriate to dismiss the present petition with special costs of ₹ 20,000/- which shall go to the wife and the kid in equal shares.

(FATEH DEEP SINGH)
JUDGE

September 6, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No