

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

CRM-M-22270 of 2018.

Decided on:- February 04, 2019.

Sube Singh.

.....Petitioner.

Versus

Angoori Devi.

.....Respondent.

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

Present:- Mr. Amit Kumar Saini, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner-husband has filed present petition under Section 482 Cr.PC for setting aside the order dated 10.08.2016 passed by learned Judicial Magistrate 1st Class, Narwana, whereby in a petition filed by the respondent-wife under Section 125 Cr.PC, she has been granted interim maintenance of Rs.1,000/- per month.

Challenge has also been laid to the judgment dated 30.10.2017 passed by learned Additional Sessions Judge, Jind, whereby the criminal revision filed by the petitioner-husband against the order dated 10.08.2016 passed by learned Magistrate, was dismissed.

Briefly stated, the respondent-wife has filed a petition under Section 125 Cr.PC before the trial Court for grant of maintenance against the petitioner-husband. The marriage between the parties was solemnized about 45 years ago. There are allegations that the husband used to give physical

assault and to abuse his wife. The husband runs a brick-kiln and earns around Rs.40,000/- per month.

The petitioner-husband denied the allegations of the respondent-wife and pleaded that the respondent resides with her son Gurmail Singh, who runs a shop. It is the respondent-wife and her son who have pushed the petitioner-husband out of home. The petitioner-husband had filed a petition seeking maintenance against his son Gurmail Singh, wherein the Court has directed Gurmail Singh to pay maintenance to the petitioner @ Rs.2,000/- per month. The petitioner is not running any brick-kiln as alleged in the application.

Vide impugned order dated 10.08.2016, learned Magistrate has awarded interim maintenance to the respondent-wife @ Rs.1,000/- per month from the date of filing of the application. The said order was challenged by the petitioner-husband by way of criminal revision, but the same was dismissed by learned Additional Sessions Judge, Jind with an observation that even if the petitioner is treated as a labourer, his income as per the Collector rate comes to Rs.9,000/- per month. However, considering the fact that the petitioner was also getting Rs.2,000/- per month as maintenance from his son Gurmail Singh, the revisionary Court upheld the order passed by learned Magistrate.

Learned counsel for the petitioner has argued that the Courts below have allowed interim maintenance by directing the petitioner to pay Rs.1,000/- per month without there being any evidence on record to the extent that the petitioner has any source of income. There is no evidence on record

which can establish that the petitioner is an earning person. Once it is found in the court proceedings that the petitioner is unable to maintain himself and is even getting Rs.2,000/- per month as maintenance from his son, the Courts below cannot compel him to pay interim maintenance to his wife. The petitioner is not able to work at all as he is an old person.

Taking into consideration the arguments raised by learned counsel for the petitioner, this Court finds that the awarded interim maintenance of Rs.1,000/- is nothing but a symbolic maintenance, which a husband must pay to his wife, more particularly when she is not earning. Moreover, it is a legal obligation on the part of petitioner-husband to maintain the respondent-wife. At the same time even the petitioner has also been awarded maintenance of Rs.2,000/- per month payable by his son.

Therefore, this Court finds that there is no illegality in the impugned order and judgment passed by the Courts below.

Accordingly, affirming the impugned order dated 10.08.2016 passed by the trial Court and the impugned judgment dated 30.10.2017 passed by the revisionary Court, present petition, being devoid of any merit, is dismissed.

February 04, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No