

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

CRM-M-24785 of 2016 (O&M)

Decided on:- May 06, 2019.

Rahul Sharma.

.....Petitioner.

Versus

Vasundhara and another

.....Respondents.

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

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Present:- Mr. Anshul Mangla, Advocate  
for the petitioner.

Mr. Ashit Malik, Advocate  
for the respondents.

**HARI PAL VERMA, J.**

The petitioner has filed present petition under Section 482 Cr.PC for setting aside the judgment dated 07.08.2015 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Kurukshetra, whereby the petition filed by the respondents, who are the wife and minor daughter of the petitioner, under Section 125 Cr.P.C. was allowed and the petitioner was directed to pay maintenance @ Rs.8,000/- per month to respondent No.1-wife and Rs.5,000/- per month to respondent No.2-minor daughter i.e. a total sum of Rs.13,000/- per month from the date of passing of judgment.

Challenge has also been laid to the judgment dated 31.03.2016 passed by learned Additional Sessions Judge, Kurukshetra, whereby the criminal revision filed by the petitioner against the judgment dated 07.08.2015 passed by learned Magistrate, was also dismissed.

Briefly stated, the respondents had filed a petition under Section 125 Cr.PC before the trial Court claiming maintenance allowance @ Rs.20,000/- per month(Rs.15,000/- per month for respondent No.1-wife and Rs.5,000/- per month for respondent No.2-minor daughter). The marriage between the petitioner and respondent No.1 was solemnised on 28.10.2011 and out of this wedlock, respondent No.2 Vanshika was born to them on 03.10.2012. Sufficient dowry was given at the time of marriage. Initially, the respondent No.1 lived in the matrimonial home peacefully for some time, but after some time, the petitioner and his family members started behaving in indifferent manner and tortured respondent No.1 for not bringing sufficient dowry and demanded Rs.7 lakh in cash for purchase of Maruti Swift car. She was continuously harassed, tortured and maltreated by the petitioner and his family members and was subjected to severe beatings and injuries. The father of respondent No.1 fulfilled the dowry demands of the petitioner while issuing cheques as well as in cash, so that respondent No.1 may live happy life, but all in vain. The petitioner had also filed a petition seeking divorce under Section 13 of the Hindu Marriage Act, 1955. Respondent No.1 along with minor daughter came to her parental home and narrated the whole story regarding harassment and demand of dowry to her parents. Panchayats were held to resolve the matter, but the petitioner and his family remained adamant on their illegal demands.

In his reply, the petitioner had controverted the averments made by respondent-wife in her petition under Section 125 Cr.P.C.

After recording the evidence of both the parties and hearing their arguments, learned Magistrate vide judgment dated 07.08.2015 allowed the petition and awarded the aforementioned maintenance to the respondents. The relevant findings of learned Magistrate as observed in paragraphs No.7 and 8 of the impugned judgment dated 07.08.2015 read as under:

*“7. Taking into account contentions of petitioner’s counsel, it is observed that petitioner produced the documents showing that respondent is working in life Science, sunvet, 21 Vita Enclave Sena Nagar, Dhulkot at Ambala and getting salary of about Rs.30,000/- per month. On the other hand, respondent is alleging that petitioner is educated and can easily maintain herself and her daughter by earning handsome salary. Moreover stand taken by respondent that on next days she told the respondent that her marriage was forcefully arranged holds no ground. After the marriage she lived in her matrimonial home and daughter vanshika born out of this wed lock. These are mere allegations against the petitioner and not any affected her right to maintenance. As she is claiming maintenance allowances to the tune of Rs.15,000/- per month and Rs.5000/- p.m. for her daughter then undoubtedly, it is duty of husband to look after his legally wedded wife and his children, especially in the circumstances, when she is not earning anything and fully dependent upon income of husband. The petitioner has been living in the parental home of her parents alongwith her daughter.*

*8. From the statement of the petitioner it is proved that the respondent has failed to maintain the petitioner without any cause though he has the means and capacity to do so. Salary record attached with the file shows that respondent is earning Rs.30,000 per month. Further, Section 125 Cr.P.C. is a provision*

*which has been entered to prevent vagrancy and destitution. In **Jagir Kaur & Anr. V. Jaswant Singh, AIR 1963 Supreme Court 1521,** the Supreme Court observed with respect to Chapter XXXVI of Criminal Procedure Code of 1898 that provisions for maintenance of wives and children intend to serve a social purpose.*

*Hence in view of the aforesaid discussion this court is of the opinion that the respondent is liable to pay maintenance to the tune of Rs.8,000/- per month to petitioner for her maintenance and Rs.5000/- per month for her minor daughter. Accordingly the respondent is directed to pay maintenance to the tune of total Rs.13,000/- to the petitioners from the date of order. The petitioner is also allowed litigation expenses to the tune of Rs.11,000/- to be paid by the respondent. Petition is hereby allowed accordingly. File be consigned to the record room after due compliance.”*

The judgment dated 07.08.2015 passed by learned Magistrate was subjected to revision petition by the petitioner. However, the same was also dismissed by learned Additional Sessions Judge, Kurukshetra vide impugned judgment dated 31.03.2016.

It is in these circumstances, the petitioner has filed present petition.

Learned counsel for the petitioner has argued that the trial Court had relied upon documents Ex.R2 and Ex.R3 and came to the conclusion that the petitioner is earning Rs.32,300/- per month as salary, which includes Rs.7,000/- per month by way of cheque and Rs.25,300/- per month in cash. The documents Annexures P-3 and P-4 pertain to ledger entries of the salary account of M/s Makson Distributors, where the petitioner was working as a

private helper since 01.08.2013. The petitioner was drawing salary of Rs.7,000/- per month which can be verified from the bank account statement Ex.R4 of the petitioner produced before the trial Court.

He has further argued that the certificate under I.T. Act Annexure P-6 reveals that the gross salary of the petitioner was Rs.1,60,000/- for the financial year commencing from 01.04.2012 to 31.03.2013. The amount of maintenance awarded in favour of the respondents is highly excessive. Since the petitioner was unable to pay the awarded maintenance, he had to undergo civil imprisonment in execution proceedings filed by the respondents before the Court of Civil Judge (Junior Division), Kurukshetra.

On the other hand, learned counsel for the respondents has argued that no interference is warranted with the impugned orders passed by the Courts below as the same are based upon correct appreciation of evidence produced on record.

I have heard learned counsel for the parties.

Vide order dated December 15, 2016 passed by this Court, the petitioner was directed to deposit a draft of Rs.70,000/- in the Registry of this Court with a further direction to release the entire amount to the complainant and the matter was referred to the Mediation and Conciliation Centre of this Court, where the parties were directed to appear on 12.01.2017 and the report of the aforesaid mediation was awaited for 28.04.2017.

On 28.04.2017, learned counsel for the respondents had informed this Court that the draft/cheque given to the complainant towards arrears of maintenance had been dishonoured for which a fresh draft/cheque

was ordered to be given to the complainant. The order dated November 28, 2018 passed by this Court does reflect that the petitioner was in arrears of maintenance to the tune of Rs.3,31,500/-. Accordingly, vide order dated 20.02.2019, learned counsel for the petitioner was directed to seek instructions as regards payment of arrears. On the next date of hearing i.e. 26.03.2019, the petitioner again offered that he is ready to settle the dispute with the respondent and accordingly, the parties were directed to remain present in Court on the next date of hearing i.e. 06.05.2019.

Today, this Court has interacted with the parties, but no amicable settlement is possible in the case. Accordingly, the matter was heard on merits.

The argument of learned counsel for the petitioner that he is drawing a salary of Rs.7,000/- per month cannot be accepted as the salary account of the petitioner does reflect that in addition to deposit of Rs.7,000/- per month, an amount of Rs.25,300/- per month is coming in his account regularly, which substantiates the argument of learned counsel for the respondents that in addition to the cheque amount of Rs.7,000/- per month, the petitioner is getting amount in cash also.

The documents Annexures P-3 and P-4 issued by the Makson Distributors, Yamuna Nagar where the petitioner is employed as helper show that the petitioner is receiving salary to the tune of Rs.7,000/- per month by cheque, whereas another amount of Rs.25,300/- per month is coming regularly in his account and this issue has been discussed elaborately by the revisionary Court in paragraph No.10 of the judgment, which reads as under:

“10. During the course of arguments, learned counsel for revisionist had laid much stress upon documents Ex.R2 and Ex.R3 which are ledger account pertaining to salary being released by Makson Distributors in favour of revisionist and while referring to those documents, it was argued that revisionist had been receiving salary to the tune of Rs.7,000/- per month by cheque and that all was the amount which he would receive from his employer and nothing more than that. The contention so raised is absolutely without any merit because a look at those documents Ex.R2 and Ex.R3 reveals that in the same month, two payments are being made on account of salary, one by way of cheque of Rs.7000/- and other by cash of Rs.25,300/-. At the hearing of this petition, learned counsel for revisionist was asked as to how does he explain the entry qua cash amount of Rs.25,300/- consistently appearing in Ex.R2 and Ex.R3 at the end of each month, he was not able to explain anything. Thus, it is seen that revisionist used to get amount of Rs.7000/- as part salary by way of cheque and an amount of Rs.25,300/- by way of cash and therefore, in a month, he used to get Rs.32,300/- as salary. Moreover, it is admitted case of the revisionist that prior to joining Makson Distributors, he was working with Sunvet Pharmaceuticals Limited. Assertion of respondents/petitioners as to salary being drawn by revisionist from Sunvet Pharmaceuticals Limited to the tune of Rs.30,000/- has been denied by the revisionist in the reply half heartedly inasmuch as he only averred in para No.13 of the reply that his salary was not so high as claimed by the respondents/petitioners. Hence, it can fairly be said that his monthly salary was Rs.30,000/- per month. However, he has maintained that due to matrimonial dispute, his employer came to be irritated and, therefore, he was thrown out of the job and as a result, revisionist could only land a job with

*Makson Distributors with meagre salary of Rs.7000/- per month.”*

Thus, having considered the judgments passed by the Courts below and the arguments raised by learned counsel for the parties, this Court finds that the petitioner was employed with Makson Distributors and his salary account does reflect that in addition to Rs.7,000/- per month, he is getting Rs.25,300/- per month in cash regularly. No such plausible explanation has been given by the petitioner that as to in what manner, said cash amount has come in his account.

Therefore, this Court finds that there is no illegality in the impugned judgment dated 07.08.2015 passed by the trial Court and the impugned judgment dated 31.03.2016 passed by the revisionary Court.

Accordingly, the present petition, being devoid of any merit, is dismissed.

**May 06, 2019**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No