

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

**CRM M-2705 of 2018
Date of Decision: August 22, 2019**

Ballu @ Hanu Singh		Petitioner
	Versus	
Reena Rani and others		 Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Akshay Jain, Advocate
for the petitioners.

Mr. Deepanshu Matya, Advocate
for the respondents.

FATEH DEEP SINGH, J. (Oral)

The essential facts, which are very much necessary to assist the Court in the disposal of the instant petition under Section 482 Cr.P.C. are as follows:-

“The marriage took place between Reena Rani and Gopal Singh (now deceased) son of Ballu @ Hanu Singh. The couple was bestowed with two daughters and unfortunately husband of Reena Rani namely Gopal Singh died. It is, subsequently, thereto, a dispute had arisen between widow

Reena Rani and her in-laws, as a consequence of which, she instituted an application under Sections 12, 18, 19, 20, 22, 23 and 28 of the Domestic Violence Act, 2005 (in short, '**the Act**').

In the application, widow Reena Rani sought maintenance from the petitioner on the ground that the family owned agricultural land, to which, she and her husband were entitled to inheritance, so consequent upon death of Gopal Singh, the children and the widow too had pre-existing right.

On account of having suffered domestic violence at the hands of the respondents, she filed the complaint and so the application for maintenance. The primary grounds of the applicant are that his father-in-law Ballu @ Hanu Singh was drawing pension of Rs.15,000/- per month and was earning a sum of Rs.10,000/- per month from the agricultural property and since she and the kids were totally dependent necessitates grant of interim maintenance.

The respondents had denied the claim of the applicant claiming non-maintainability of the application, lack of locus standi of Reena Rani to file the same against the

respondents and sought dismissal of the same.

The Court of learned Sub-Divisional Magistrate, Sohana, District Gurugram vide order dated 30.03.2017 (Annexure P-4) allowed the claim of the wife and granted a sum of Rs.4,000/- per month as interim maintenance allowance. The same was challenged by petitioner Ballu @ Hanu Singh in a criminal appeal and the Court of learned Additional Sessions Judge, Gurugram vide impugned order dated 28.11.2017 (Annexure P-6) dismissed the appeal. The same is the subject matter of challenge before this Court in this petition.

Upon hearing Mr. Akshay Jain, learned counsel for the petitioner, it is duly admitted by counsel for the two sides as to the *inter se* relationship of the petitioner and the applicant Reena Rani and the fact of death of husband of Reena Rani, namely, Gopal Singh, out of which, the applicant has two minor daughters. It is not displaced by any means even before the Court below or in this petition before this Court that the petitioner is getting pension of Rs.15,000/- per month. The family owned certain agricultural income and the learned Sub-Divisional Judicial Magistrate had considered the fact that the widow lady needs money for her upkeep and that her daughters as well as their education besides unforeseen eventualities including medical assistance and has, thus,

awarded Rs.4,000/- per month. So, in the impugned finding, the learned Sessions Judge has categorically held that widow and the kids did not have any means of livelihood whereas the family of the husband were bestowed with sufficient income and earnings. Section 23 of the Act provides for power of a Magistrate to pass such interim order as it may deems just and proper. Had the petitioner any grouse over the quantum of maintenance, it could have moved the Court concerned in terms of Section 25 of the Act for alteration of such an order of interim maintenance but it did not do so and rather invoked the jurisdiction in terms of Section 29 of the Act. By virtue of Section 20 of the Act, the Magistrate has sufficient powers to order payment of monetary relief to an aggrieved person and any child of the aggrieved person, as a consequence of domestic violence. Unfortunately, the husband of the applicant Reena Rani has died at a young age. Admittedly, Reena Rani is the widow and has two minor daughters out of the loins of the deceased and, therefore, being entitled to this loss of earning as well as medical expenses as well as maintenance for herself and her children, certainly, is entitled to invoke the jurisdiction of this Court.

Learned counsel for the petitioner Mr. Akshay Jain, could not convince this Court how the amount so awarded was

on the higher side or was unjust. The claim that there does not exist any domestic relationship is a matter of evidence when on the other hand, the petitioner accepted the fact of the relationship of the parties and, therefore, leaves no scope for this Court to exercise its extra ordinary jurisdiction with the aid of Section 482 Cr.P.C. This Court is not impressed by the submissions of the petitioner side and the petition finding no merit stands dismissed.

August 22, 2019

amit rana

(FATEH DEEP SINGH)**JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No