

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

**CRM M-29468-2017 (O&M)
Date of Decision : 29.04.2019**

Amarjit Kaur

..... Petitioner

Versus

Satpal Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Arun Luthra, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J. (Oral)

Challenge in the instant petition is to the order dated 02.06.2017, passed by the learned Additional Sessions Judge, Ludhiana, vide which the revision petition filed by the respondent was allowed and the order dated 12.05.2016, passed by the learned Judicial Magistrate Ist Class, Ludhiana, granting interim maintenance at the rate of Rs.3,000/- per month to the petitioner, was set aside.

The petitioner moved an application under Section 125 Cr.P.C. for grant of maintenance on the ground that she is in live-in-relationship with the respondent for a long period and the said application was allowed vide order dated 12.05.2016, passed by the learned Judicial Magistrate and the petitioner was granted interim maintenance at the rate of Rs.3,000/- per month. However, the said order was assailed before the revisional court by the respondent, by way of filing revision petition which was allowed vide

order dated 02.06.2017, passed by the learned Addl. Sessions Judge, Ludhiana and the order dated 12.05.2016, passed by the learned Magistrate was set aside.

At the stage of awarding interim maintenance, the court has to see a prima facie case in favour of the applicant because evidence has not been adduced at this stage. However, the Court can alter, in either side, the amount of maintenance after adducing the evidence.

It is a case of the petitioner that she was in live-in-relationship with the respondent and there was long exhorbitant, therefore, she is entitled for maintenance. Learned counsel for the petitioner has placed reliance upon the judgments of Hon'ble Supreme Court in **Chanmuniya vs. Virendra Kumar Singh Kushwaha and another (2011) 1 Supreme Court Cases 141 and Badri Prasad vs. Dy. Director of Consolidation and others AIR 1978 Supreme Court 1557.**

On the other hand, it is a case of the respondent that he was never married with the petitioner nor he had any relation with her. He is already having a living spouse.

I have heard learned counsel for the parties and have gone through the record.

To establish a prima facie case, respondent-wife has placed on record the photographs showing togetherness between the parties. Apart from it, a compromise was effected between the parties vide which respondent Satpal Singh took the responsibility to pay Rs.7500/- per month to the petitioner.

The learned revisional court failed to appreciate that prima facie case is made out from a bare perusal of the photographs as well as

compromise deed (Annexure P1). However, after adducing evidence, the said order can be modified on either side.

In *Chanmuniya vs. Virendra Kumar Singh Kushwaha and another (2011) 1 Supreme Court Cases 141*, Hon'ble Supreme Court has made the following observations:-

“The Constitution Bench of this Court in Mohd. Ahmed Khan v. Shah Bano Begum, considering the provision of Section 125 of the 1973 Code, opined that the said provision is truly secular in character and is different from the personal law of the parties. The Court further held that such provisions are essentially of a prophylactic character and cut across the barriers of religion. The Court further held that the liability imposed by Section 125 to maintain close relatives, who are indigent, is founded upon the individual's obligation to the society to prevent vagrancy and destitution.”

In view of above, this court is of the view that the impugned order dated 02.06.2017 passed by the revisional court is not sustainable in the eyes of law, therefore, the same is set aside and the order dated 12.05.2016, passed by the learned Magistrate stands restored.

The instant petition stands allowed accordingly.

29.04.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No