

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

1. CRM-M No.3214 of 2016

Sandeep Garg

... Petitioner

Versus

Bhavna Garg & others

... Respondents

2. CRM-M No.5473 of 2016

Bhawna Garg & others

... Petitioners

Versus

Sandeep Garg & another

... Respondents

Date of decision: 15th July, 2019

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. A.S. Gagrha, Advocate for the husband.

Mr. Nitin Thatai, Advocate for the wife and kids.

FATEH DEEP SINGH, J.

Since both these petitions under Section 482 Cr.P.C., the first one bearing CRM-M No.3214 of 2016 by the husband Sandeep Garg and the other CRM-M No.5473 of 2016 by the wife and minor kids have arisen out of the same very impugned order of learned Additional Sessions Judge, Ludhiana dated 29.10.2015 modifying the orders of learned Judicial Magistrate 1st Class dated 08.01.2014 enhancing the maintenance allowance awarded under Section 125 Cr.P.C., are thus being taken up for disposal together on account of consanguinity of facts and the law.

Upon hearing Mr. A.S. Gagrha, Advocate for the husband; Mr. Nitin Thatai, Advocate representing the wife and kids and on perusal of the records.

It is duly admitted that marriage between Bhavna Garg and Sandeep Garg was solemnized on 02.05.1996 and out of which wedlock, Sunaina Garg a minor daughter and Mukal Garg a minor son were born to the couple. Subsequent thereto, on account of matrimonial dispute, the couple initiated legal proceedings against each other. As a sequel to this, the wife and the minor kids filed an application under Section 125 Cr.P.C. seeking maintenance from the husband. The Court of learned Judicial Magistrate 1st Class, Ludhiana through orders dated 08.01.2014 granted interim maintenance to the wife at the rate of ₹2000/- per month and to the two minor kids at the rate of ₹1000/- per month each from the date of order. The same was impugned in revision by the wife and the kids and which stood disposed off vide impugned order dated 29.10.2015 by the Court of learned Additional Sessions Judge, Ludhiana thereby enhancing the interim maintenance of the wife to ₹10,000/- per month and ₹7,500/- each to both the minor kids and ordered that the payment would be made from the date of the application.

It is not displaced and rather is writ large on the records that both the children are as on date residing with their mother and are studying in best known schools in the area. The husband is running business dealing in woollen yarn under the name and style of M/s BK Sales Corporation and another firm under the name and style of M/s BK

Scientific Dyers and another firm under the name and style of M/s BK High Tek. Though much resistance is sought to be offered on behalf of the husband that there is nothing tangible to show and establish prima facie as to the earnings of the husband and which argument is sought to be thwarted with much force by learned counsel for the dependents that being interim maintenance it would be after evidence the main application would be decided.

Going through the submissions, as is there in the impugned findings, the learned Additional Sessions Judge has rightly concluded that the learned Judicial Magistrate has fallen into an error and has considered the earnings of the husband to be just ₹9000/- per month when admittedly he was a business-hand and therefore certainly appears to be a preposterous preposition that has been taken account of by the learned Judicial Magistrate. As has been pointed out in the impugned findings considering the schools in which the children are studying and their likely expenses which have been considered by the Court, keeping in view irrefutable stands of the parties and holding that the husband, being a businessman, is certainly under obligation to maintain and upkeep the dependents commensurate with his status. The premise that is sought to be raised by the husband side that the wife too is a Director in a Real Estate Company, does not cuts much ice as merely being a Director does not ipso-facto means she is having and deriving income out of this business where admittedly there are other Directors too.

Going through the impugned orders and scanning the same in totality of what is the stand of the parties to this *lis*, the Court had taken great pains in evaluating the stands of the two sides and the background of the families and therefore, has come to a justifiable conclusion. Keeping in view the rising trend of prices of essential commodities and cost of living, awarding ₹10,000/- per month to the wife and ₹7,500/- per month to each of the children does not appear to be on the higher side, especially in the light of the fact that father is a businessman running three different firms. Even the stand of the wife seeking enhancement of the interim maintenance does not appear to be justified and rather the amount so awarded by the Court below after modification of the orders of the learned Judicial Magistrate is well balanced and cannot be termed either on the higher side or on the lower. Thus this Court does not find any illegality or infirmity in the findings of the learned Court below and therefore, finding no merit in both the present petitions, the same stand dismissed.

(FATEH DEEP SINGH)
JUDGE

July 15, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No