

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

CRM-M-33173 of 2018 (O&M)
Decided on:- March 27, 2019.

Gharminder Singh.

.....Petitioner.

Versus

Swaranjit Kaur and others

.....Respondents.

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

Present:- Mr. Vijay Sharma, Advocate
 for the petitioner.

Mr. N.S. Bains, Advocate
 for respondent No.1.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.PC seeking quashing of the order dated 06.03.2018 (Annexure P-2) passed by learned Additional Sessions Judge, Chandigarh as well as the order dated 08.08.2017 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Chandigarh.

Vide impugned order dated 08.08.2017, learned Judicial Magistrate 1st Class, Chandigarh allowed interim maintenance @ Rs.11,000/- per month to respondent No.1 from the date of filing of the application under Sections 12, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (for short, the Domestic Violence Act). Learned

Magistrate also restrained the petitioner and respondents No.2 and 3, who are the parents of the petitioner, from disturbing and dispossessing the respondent No.1-complainant from her peaceful possession in one room along with temporary kitchen established in the common lobby and common washroom used by her in the shared household in her matrimonial home i.e. House No.199, village and Post Office, Maloya, U.T., Chandigarh.

Against the aforesaid order dated 08.08.2017 passed by learned Magistrate, the petitioner and respondent No.1 both filed separate appeals before the Court of Session, Chandigarh. Whereas the respondent No.1-wife had sought enhancement of interim maintenance, the petitioner had questioned the award of interim maintenance as well as interim direction regarding possession granted by learned Magistrate vide judgment dated 08.08.2017. However, vide common judgment dated 06.03.2018, both appeals were dismissed by learned Additional Sessions Judge, Chandigarh.

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

Briefly stated, the marriage of the petitioner was solemnised with respondent No.1 on 26.04.2009 and at the time of settlement of marriage, respondent No.1 had disclosed her marital status as unmarried, but in June, 2016, the petitioner came to know that respondent No.1 was married and her husband had died in the year 2015-16. When the petitioner tried to inquire about the same from respondent No.1, she started avoiding reply. However, when the petitioner repeatedly asked about the same, she started quarrelling with the petitioner as well as his parents and sisters. When the petitioner had

told that he is going to file a criminal case against her as his consent had been obtained by playing fraud and concealing the factum of earlier marriage, she started filing false complaints against the petitioner and his parents and made their life a hell. She is in the habit of abusing and beating the petitioner and levelling false allegations against all his family members.

Learned counsel for the petitioner has argued that the respondent No.1 is in the habit of leaving her matrimonial house after every 10-15 days and to go to her parents for the reason best known to her. The petitioner is used to bring her back. The petitioner is being humiliated by respondent No.1 and her parents. They are pressurising the petitioner to transfer all his assets in the name of respondent No.1. The petitioner has taken premises on rent at village Daun Majra on the continuous pressure of respondent No.1, where they started residing since the year 2014.

He has further argued that respondent No.1 is not entitled to maintenance as she also occupied the house of respondent No.2 (father of the petitioner) and she is enjoying all the facilities and is doing stitching work in the house. She has employed one lady to assist her to do the stitching work. Even her mother used to visit and forcibly occupied premises in order to have fight with the family of the petitioner. Besides this, the respondent No.1 is gainfully employed with M/s Tynor Orthotics P. Ltd. since 04.10.2013 and is drawing a salary of Rs.10,637/- per month. As per the pay slip for the month of April, 2018, her total salary is Rs.14,270/- per month. She is not paying any electricity bill and no rent is being charged as she is living in the house of the father of the petitioner. She has misled the trial Court while seeking

interim maintenance by wrongly writing in prayer clause of monetary relief under Section 20 of the Domestic Violence Act. In fact, it is the petitioner, who is victim of domestic violence, as he has been disowned by his parents. He is living separate from his parents and respondent No.1-wife. He is living in a rented accommodation at village Barmajra and is paying rent @ Rs.5,000/- per month.

He has further argued that earlier, the petitioner was working as Assistant Project Engineer at JLPL, Mohali, but now his services have been terminated because of the various litigation between the parties. The petitioner is badly in need of job. Therefore, he is looking for the same for his survival. However, the documents attached by the petitioner in support of his contentions have not been considered by the Courts below, which has caused a great prejudice to the petitioner.

On the other hand, learned counsel for respondent No.1 has argued that there is no illegality in the impugned orders passed by the Courts below. The interim maintenance has rightly been awarded by learned Magistrate and no interference is warranted.

I have heard learned counsel for the parties.

On August 03, 2018, while issuing notice of motion, following order was passed by this Court:

“Learned counsel contends that respondent is earning Rs.14270/- and as per the Certificate she is getting Rs.11000/- in hand and she is living in his house and would be using free electricity and water, whereas the petitioner is staying outside.

Notice of motion, returnable for 16.11.2018.

There will be stay of maintenance amount beyond Rs.3000/- per month.”

Thereafter, the case was adjourned to 01.12.2018, but there being an adjournment slip circulated on behalf of the petitioner, the case was adjourned to 17.12.2018, which was further adjourned to 10.01.2019 and on that day, no one was present on behalf of the petitioner and the case was again adjourned to 07.02.2019. Even on 07.02.2019, no one had appeared on behalf of the petitioner. Thereafter, the case was adjourned to 08.02.2019. Vide order dated 08.02.2019, this Court, while adjourning the case to 05.03.2019, had directed that the petitioner shall clear the outstanding dues on or before the next date of hearing. On 05.03.2019, following order was passed by this Court:

“Vide order dated February 08, 2019 passed by this Court, the petitioner was directed to clear the outstanding dues, but the petitioner has handed over a sum of Rs.15,000/- to respondent No.1 in Court today.

Learned counsel for the respondents states that in terms of order dated August 03, 2018 passed by this Court, the petitioner is in arrears of Rs.43,500/-, but only a meagre amount of Rs.15,000/- has been paid.

There is a request for adjournment on behalf of the petitioner on the ground that the arguing counsel for the petitioner is in personal difficulty as his father is admitted in hospital.

Adjourned to 19.03.2019.

On the adjourned date, the petitioner shall pay the entire outstanding amount.

Be shown in the urgent list.”

Thereafter, on 19.03.2019, this Court had passed the following order:

“Counsel for the petitioner states that grandmother of the petitioner has died and it is for this reason, the petitioner could not pay the outstanding arrears. He prays for an adjournment.

Adjourned to 27.03.2019.

On the adjourned date, petitioner shall remain present in the Court.

Be shown in the urgent list.”

Even today, the petitioner has not cleared the outstanding arrears, which shows that he is adamant and is not inclined to comply the orders passed by this Court despite availing ample opportunities. The conduct of the petitioner does reflect that he is not inclined to pay the outstanding maintenance, rather, he is intending to delay the proceedings. To some extent, the petitioner succeeded in delaying the proceedings as the case was being adjourned repeatedly on his requests. Even otherwise, the maintenance granted to respondent No.1-wife is interim in nature.

Therefore, considering the fact that the petitioner has not complied with the orders passed by this Court and has failed to clear the outstanding arrears of interim maintenance despite availing a number of

opportunities, this Court finds that the present petition deserves to be dismissed.

Ordered accordingly.

March 27, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No