

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-35854 of 2015
Date of decision : February 27, 2019

Nirmal Kaur and another

....Petitioners

versus

Avtar Singh

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rohit Verma, Advocate, for the petitioners

Mr. Vicky Sharma, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

Petitioners Nirmal Kaur being the wife and Jinetdeep being minor daughter had instituted this petition with the aid of Section 482 of the Code of Criminal Procedure against the respondent husband and father respectively namely Avtar Singh wherein they have sought enhancement of maintenance by way of modification of an order dated 1.11.2014 Annexure P/1 passed by the Court of learned Judicial Magistrate Ist Class, Amritsar and which has merged in the impugned order of learned Additional Sessions Judge, Amritsar dated 3.7.2015

Annexure P/2 refusing to accept the revision petition.

Heard Mr. Rohit Verma, Advocate, for the petitioners and Mr. Vicky Sharma, Advocate, for the respondent and perused the records.

As is the contention of the two sides petitioner Nirmal Kaur had underwent marriage with respondent Avtar Singh on 18.2.2008 and as a consequence of this matrimony a daughter namely Jinetdeep was born to the couple. It is during the course of their marriage matrimonial dispute had arisen between the couple and as a consequence of which the wife and daughter filed application under Section 125 Cr.P.C. seeking grant of maintenance. The court of learned Judicial Magistrate Ist Class, Amritsar vide orders dated 1.11.2014 allowed the application whereby the wife was granted maintenance to the tune of Rs 10,000/- per month and daughter was awarded Rs 5000/- per month from the date of filing of the application. The same was again impugned by the wife and the daughter on the one hand and through separate petition the husband too has assailed the same. The court of learned Additional Sessions Judge, Amritsar while deciding both the revision petitions together through the judgment order dated 3.7.2015 upheld these findings and thus dismissed both the revision petitions. The same is subject matter of challenge in this petition.

Appreciating the submissions it is by no means put to question as to the inter-se relationship of Avtar Singh with Nirmal Kaur

and birth of a minor daughter out of their wedlock. It is the own stand of the husband taken in his pleadings that he is presently posted as a Head Constable in the PAP. However, the claim of the wife and the daughter that they have been neglected and refused to be maintained have been refuted by the husband by taking pleas that the wife is of quarrelsome nature and is living an adulterous life and has walked out of this marriage since February, 2008.

During the course of evidence the wife testified as AW1 and sought corroboration from the testimony of AW2 Mukhtiar Singh following by the testimony of AW3 Karnail Singh. Lastly through AW4 HC Ajmer Singh has got proved the last salary drawn certificate Ex. PX of the husband which shows total payable salary of the husband as Rs 25,478/- per month. The husband failed to lead any evidence which was closed by order. Thus, the entire stand of the wife has been corroborated by her witnesses and which has been remained unrebutted from the side of the husband. The only moot point arises over the very quantum of maintenance to which the wife and the daughter are entitled.

Learned counsel for the respondent could not displace the argument of counsel for the petitioners who has heavily placed reliance on salary certificate Annexure P/3 whereby it is shown that on the date i.e. April, 2015, the husband was drawing Rs 38,259/- per month. The fact as has come about is that the mother and the daughter are living

separate from the husband who is also under an obligation to maintain his widowed mother. No doubt the obligation of the husband towards all his dependents has to be appreciated and considering the salary drawn by the husband out of which Rs 10,000/- has been awarded per month to the wife and Rs 5000/- per month to the minor daughter and therefore, totalling to Rs 15,000/- almost half of total salary which is coming to the husband. No doubt over a period of time since the year 2015 when the salary was proved by way of Ex. PX. there has been astronomical increase in the trend of prices of essential commodities and all activities of life but at the same time there is an increase in the emoluments of the employees and for which the wife and the daughter reserve their right to seek enhancement of the maintenance in terms of Section 127 Cr.P.C. The courts below at the time of adjudicating the matter has taken into evidence what was before it, the wife and the daughter certainly needs roof over their heads, square meal a day, clothing as well as educational requirements of the child and day to day expenses and so is case of the husband and his widowed mother. There is nothing suggestive to show that the widowed mother is self dependent. Learned counsel for the petitioner could not convince this Court how there has been wrong interpretation and conclusion drawn by the two courts below over the quantum of maintenance so awarded to the petitioners and rather to the mind of this Court cannot be termed either to be on the higher side or too meager an amount which could

necessitate intervention by this Court. Counsel for the petitioners could not bring about anything necessitating intervention by this Court to meet the ends of justice. There appears to be no illegality or perversity in the consecutive findings of two courts below and therefore, needs to be upheld. The petition being without any merit stands dismissed.

February 27, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?	Yes/No
Whether Reportable ?	Yes/No