

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-20125 of 2019 (O&M)
Date of decision : May 28, 2019

Sandeep Singh

....Petitioner

versus

Amanpreet Kaur and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Parunjeet Singh, Advocate, for the petitioner

Fateh Deep Singh, J. (Oral)

The background of this petition under Section 482 of the Code of Criminal Procedure (in short, Cr.P.C.) filed by disgruntled petitioner husband Sandeep Singh has its genesis when in a complaint under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (in short, the Act) preferred by the wife, she had moved an application under Section 23 of the Act seeking grant of interim maintenance from the husband. The court of learned Judicial Magistrate 1st Class, Ludhiana vide orders dated 25.7.2018 allowed the application thus directing the respondent-husband now

petitioner to pay a sum of Rs 7000/- per month as maintenance and Rs 1000/- per month on account of accommodation and electricity bill. The same was challenged by the husband in an appeal filed under Section 29 of the Act. The court of learned Additional Sessions Judge, Ludhiana through impugned judgment dated 25.3.2019 upheld the orders of the learned Magistrate and finding the appeal to be devoid of merit dismissed the same.

Learned counsel for the petitioner to illuminate his submissions to the question of this Court posed vide orders dated 3.5.2019 had placed reliance on **P.Chandrasekhara Pillai vs Valsala Chandran, 2007(5) R.C.R. (Criminal) 871; Sanjay Bhardwaj vs The State & Anr., 2010(7) R.C.R.(Criminal) 1287 and Eshan Joshi vs Suman, 2018(1) R.C.R. (Criminal) 931**. However having regard to the admitted facts that the appeal under Section 29 of the Act of the husband stood dismissed, this Court is of the view that one cannot be allowed to implore this Court for taking recourse to extra ordinary jurisdiction of this Court by invoking the provisions of Section 482 Cr.P.C. and it would tantamount virtually exercise of another similar full-fledged remedy of an appeal is not permissible and could have only narrowed down to the very legality and propriety of the findings over which the petitioner is aggrieved. This Court

seeks support from a similar view of the Hon'ble Kerala High Court in **Baiju vs Latha, 2011(3) R.C.R. (Criminal) 704** where similar question was answered holding that since there is no provisions in the Act for challenging of findings of an appellate court passed under Section 29 of the Act and therefore, the only challenge can that be had by way of revisional jurisdiction and thus rectify miscarriage of justice, if any, has resulted. Thus, in the light of the same, the present petition is hopelessly unsustainable and stands dismissed.

May 28, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No