

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-40740 of 2017 (O&M)
Date of decision : February 05, 2019

Ajay Sharma

....Petitioner

versus

Monika Sharma and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Onkar Rai, Advocate, for the petitioner
Mr. PS Paul, Advocate, for the respondents

Fateh Deep Singh, J. (Oral)

This is a petition by unsuccessful husband-petitioner Ajay Sharma whereby he has sought quashment of judgment dated 5.10.2016 passed by the court of learned Additional Sessions Judge, SAS Nagar (Mohali), Annexure P/1, whereby it has partly allowed the revision petition filed by the respondents in which earlier judgment dated 28.1.2015 passed by learned Judicial Magistrate Ist Class, Mohali has merged and thus consequently praying for dismissal of the application under Section 125 Cr.P.C. filed by the respondents wife and children.

Heard. Records perused.

The brief background of this lis is that the wife Monika Sharma

along with two minor daughters Varsana and Harshita filed against the respondent-husband and father Ajay Sharma respectively an application under Section 125 Cr.P.C. for grant of maintenance. The claim is based on the averments that out of the wedlock of Monika Sharma and Ajay Sharma, other applicants minor daughters were born and on account of harassment and cruelty by the husband and his parents a matrimonial dispute ensued between the parties and the wife along with the children were thrown out of the matrimonial home on 17.6.2008 after giving them beatings. It is worth while to refer here that the wife at that time was in advance stage of pregnancy and delivered the second child at the house of her parents thereafter. It is the claim of the wife that she is working on contractual basis at PGI Chandigarh and getting Rs 5000/- per month and needs money for a dwelling unit, fees of the children, square meal a day besides other expenses and thus, sought maintenance from the husband.

The husband in his stand taken in the reply termed the application to be figment of imagination of the wife claiming that the wife was gainfully employed and earning much more than the husband and even refuted the allegations that the wife or the children were ever thrown from the matrimonial home or were ill treated by the husband or his family. It is alleged that the wife has left her matrimonial home on her own voluntarily. It is consequent thereupon during the course of proceedings the husband was proceeded ex-parte and the court of learned Judicial Magistrate Ist Class, Mohali vide orders dated 28.1.2015 allowed the application and the

husband was directed to pay Rs 1000/- per month to the wife and Rs 500/- per month to each of the children, in all totalling Rs 2000/- per month. Aggrieved over these findings, the husband challenged the same in a revision. It is through the impugned findings dated 5.10.2016, the court of learned Additional Sessions Judge, Mohali, upholding the entitlement of the dependents to maintenance had modified the orders and enhanced the maintenance of the minor daughters to Rs 5000/- per month each from the date of the filing of the application of maintenance whereas did not disturb the quantum of maintenance allowed to the wife. The same is subject matter of challenge before this Court.

During the course of submissions, learned counsel for the petitioner Mr. Onkar Rai and counsel for the respondents Mr. PS Paul, the husband had initially appeared before the court of learned Judicial Magistrate Ist Class and subsequently failed to put in appearance inspite of having filed the reply to the application for maintenance did not bother to put in appearance and pay even interim maintenance so granted by the court. It is argued before this Court by the counsel for the dependents that as on date more than Rs 7 lacs is due as arrears of maintenance to be paid by the petitioner-husband. Counsel for the petitioner Mr. Onkar Rai, does not disputes the same nor could bring forth any condonable reason for non-payment of this maintenance amount. It is the stand of the husband that he is able bodied person running a tea stall. Thus, by all means he is supposed to upkeep and maintain his family consisting of a wife and minor daughters.

The provisions of Section 125 Cr.P.C. are welfare in nature which cast a statutory obligation on the husband to ensure that the dependents are not forced to live a life of destituteness and therefore, to prevent vagrancy has been enshrined and is to be given effect commensurate with the economic status of the husband and that the dependents are supposed to be maintained commensurate with that status and dignity. It is writ large on the record as has been conclusion drawn by both the courts below that both the daughters are studying in school and therefore, must be paying fees, conveyance charges, for their books and other like subsidiary charges besides food and a roof over their head. Merely because the wife admits that she is working on a contractual basis at PGI, Chandigarh at a meager salary of Rs 5000/- is not sufficient to make both the ends meet especially in the light of the fact that the dependents are residing in the Tricity where rentals are on the higher side besides the upward trend in rising prices of essentials and other subsidiaries which are essential for upkeep, education and maintenance of the daughters. Thus, the claim that has sought to be made by the counsel for the petitioners that they are on the higher side does not impress the Court much and rather are too meager an amount to look after all these needs and requirements. The husband has failed to comply with the directions of interim maintenance and has even refused to pay maintenance arrears in this Court, therefore, his conduct does not deserves any sympathy of the Court. There has been proper appreciation of the evidence on the record and the law and therefore, does not calls for any

exercise of inherent powers of this Court by resorting to provisions of Section 482 Cr.P.C. The petition being hopelessly without merit stands dismissed.

February 05, 2019
'tiwana'

(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>