

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

CRM-M-43471-2018 (O&M)

Date of Decision:-28.8.2019

Amit Khanna

... Petitioner

Versus

Silky

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sham Lal Bhalla, Advocate for the petitioner.

Mr. Nitin Thatai, Advocate for the respondent.

GURVINDER SINGH GILL, J.

1. The petitioner Amit Khanna has filed this petition challenging order dated 27.8.2018 passed by learned Additional Sessions Judge, Ludhiana whereby an order dated 12.1.2018 passed by learned JMIC, Ludhiana granting interim maintenance to the respondent, apart from rental amount has been upheld.
2. A few facts necessary to notice for disposal of this petition are that the respondent (wife of petitioner) filed a petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 in the Court of JMIC, Ludhiana alleging therein that she had been married to petitioner Amit Khanna on 23.9.2006. It is further alleged that although huge number of articles in the shape of household goods and gifts were given at the time of marriage but the petitioner and his parents were not happy with the same and started demanding more dowry. It is stated therein that one male child was born out of the wedlock on 24.7.2008 but the conduct of the petitioner or of his parents did not improve. It is alleged that the petitioner and her parents

had misappropriated the *Istri dhan* and other articles belonging to the respondent. It is further alleged therein that the petitioner is not maintaining the respondent and consequently respondent had to take up a temporary job for survival and was dependent upon her parents for residence. The petitioner, thus, prayed for issuance of direction to be issued to the petitioner to arrange for rental accommodation; to pay maintenance @ Rs. 1 lac per month apart from litigation expenses; to pay an amount of Rs. 1 crore as damages; not to alienate the house and to pass any other direction deemed appropriate in the circumstances. Along with the aforesaid petition, an application for grant of interim maintenance was also filed. The learned JMIC, Ludhiana disposed of the aforesaid application for grant of interim relief under Section 23 of Protection of Women from Domestic Violence Act vide order dated 12.1.2018 directing the petitioner to pay an amount of Rs. 15,000/- per month as maintenance apart from an amount of Rs. 5,000/- per month as rental amount to enable the respondent to arrange for residential accommodation.

3. The aforesaid order dated 12.1.2018 was challenged by the petitioner by way of filing criminal appeal which was dismissed by the Court of learned Additional Sessions Judge, Ludhiana vide judgment dated 27.8.2018, which has been impugned by way of filing the present petition.
4. The learned counsel for the petitioner has submitted that in the present case admittedly the respondent herself is gainfully employed as has been stated by her in her petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The learned counsel, in this context, has further submitted that infact the respondent, while working as Research

Analyst, with Dr. Wander at Hero Heart, DMC Ludhiana is earning much more than what the petitioner is earning and that since it is the petitioner who is maintaining the minor child, therefore, the amount of Rs. 15,000/- as awarded by the Courts below as interim maintenance is very much on the higher side. The learned counsel has further submitted that infact as per the income tax returns for the year 2016-2017, the petitioner had a gross total income of Rs.1,52,615/- and which could hardly justify grant of Rs.15,000/- as monthly maintenance. The learned counsel has further referred to the fee receipts in respect of deposit of quarterly tuition fee by the petitioner in Kundan Vidya Mandir School, Civil Lines, Ludhiana where the son of the petitioner is studying which would show that an amount of approximately Rs. 8,000/- per quarter is being deposited as tuition fee.

5. Opposing the petition, the learned counsel for the respondent has referred to reply in the shape of an affidavit accompanied by several income tax returns of Ms. Khanna Associates which would show that the said firm has consistently been having handsome income running in lacs. The learned counsel for the respondent has submitted that infact the petitioner is working with his father, who is running the aforesaid firm and that in the income tax return relied upon by the petitioner, the income has intentionally been shown to be much less only to avoid liability of tax as well as to avoid payment of adequate maintenance to the respondent.
6. I have considered rival submissions addressed before this Court and have also perused the petition as well as documents annexed with the petition. The petitioner is himself a professional, being an Architect, whose father is also stated to be in the same profession and is working in the same city.

7. Upon perusal of the impugned order, this Court does not find any perversity in the same keeping in view the status of the parties and the fact that the petitioner himself is a professional and is stated to be maintaining two cars and is also having joint FDRs i.e. FDR No. 3219378723, FDR No.3352135254 and FDR No.3515309092. The amount of Rs.15,000/- as awarded as interim maintenance cannot be said to be on higher side even while keeping in view that the respondent may have been forced to work herself upon the petitioner having refused to maintain her. Further, the amount of Rs.5000/- per month as awarded towards the rental amount is also fairly reasonable. This Court does not find any ground to interfere with the impugned order and the same are hereby upheld.

28.8.2019

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No