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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

I. CRM-M-45811-2018
Date of decision:31.01.2019.

GAGANDEEP ... Petitioner

versus

SAVITA RANI Respondent

II. CRM-M-50712-2018

SAVITA RANI ... Petitioner

versus

GAGANDEEP SINGH Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ajay Kamboj, Advocate,
for the petitioner in CRM-M-45811-2018 and
for the respondent in CRM-M-50712-2018.

Mr. Inderjit Singh Chawla, Advocate,
for the petitioner in CRM-M-50712-2018 and
for the respondent in CRM-M-45811-2018.

HARI PAL VERMA, J.(Oral)

This order shall dispose of two petitions i.e. **CRM-M-45811-2018** titled as **Gagandeep Versus Savita Rani** and **CRM-M-50712-2018** titled as **Savita Rani Versus Gagandeep Singh**, as the same have arisen from the order dated 01.09.2018 passed by learned Additional Sessions Judge, Fazilka, whereby the revision petitions filed against the order dated 20.01.2017 passed by learned Judicial Magistrate Ist Class, Jalalabad, were dismissed.

Briefly stated, the respondent-Savita Rani had filed a petition under Section 125 Cr.P.C. for grant of maintenance allowance. While the said petition was pending, the respondent moved an application under Section 125 Cr.P.C. for interim maintenance wherein she had pleaded that the respondent-Gagandeep was married with the petitioner-Savita Rani and she is residing separately from him. Since she needs maintenance to survive, therefore, she be granted interim maintenance so as to meet her day-to-day expenses.

Learned counsel for the petitioner-Gagandeep has argued that the respondent-Savita Rani was never married with the petitioner but still without appreciating this fact, learned Magistrate vide his order dated 20.01.2017 had awarded interim maintenance in favour of the respondent-wife @ Rs.2,500/- per month from the date of application. He has further argued that a complaint filed by the respondent-wife under Section 12 of Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act') against the petitioner and his family was dismissed by the learned Magistrate vide his order dated 03.01.2019 as she has failed to establish that she is in relationship with the petitioner as his wife. Even otherwise, no date of marriage had been pleaded or proved by the respondent. Therefore, while dismissing the complaint, it was held that in the absence of marriage, no question arises as of domestic violence.

Learned counsel for the respondent has argued that relationship viz-a-viz marriage is required to be established during the course of trial. Since interim maintenance is meant for survival of the respondent-wife, no interference is warranted at this stage. The finding of the learned Magistrate

03.01.2019 the complaint filed by the respondent has been dismissed, for which, respondent has a remedy to avail.

I have heard learned counsel for the parties.

In order to claim maintenance, respondent-wife was required to establish that the petitioner-husband is under a legal obligation to maintain her. But what has been pleaded in the petition under Section 125 Cr.P.C. is that the respondent was married with the petitioner, but in the absence of any pleadings with regard to the date of marriage and more particularly when the learned Magistrate vide order dated 03.01.2019 in proceedings under Section 12 of the Act between the parties has held that the relationship in the nature of marriage has not been established, this Court finds that the respondent was certainly required to establish the relationship between them. In absence thereof, the order passed by the court below is not sustainable. Relationship is therefore required to be proved, so as to claim interim maintenance.

In view of above, the petition filed by Gagandeep in CRM-M-45811-2018 is hereby allowed, whereas the petition filed by Savita Rani in CRM-M-50712-2018 is hereby dismissed.

However, the observations made hereinabove shall not be construed as an expression on the merits of the case and the parties are required to produce their respective evidence to establish their respective claims.

(HARI PAL VERMA)
JUDGE

31.01.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No