

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. (F) 235 of 2015(O&M)
Date of decision : November 19, 2019

Pawan Kumar

....Petitioner

versus

Kusum Lata and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Gaurav Sethi, Advocate, for the petitioner

Mr. Rajesh Bansal, Advocate, for the respondents

Fateh Deep Singh, J. (Oral)

Kusum Lata along with her minor daughter Himani and minor son Devanshu filed against the then respondent husband Pawan Kumar present petitioner a claim by way of application under Section 125 Cr.P.C. seeking grant of maintenance allowance. It is the averments of the claimants that they were not having any source of income whereas the respondent-petitioner was running a tailor shop under the name and style of M/s New Fancy Tailors and

earning Rs 15,000/- per month. It is on the basis of the evidence of the parties comprising of testimony of the wife Kusum Lata as PW1, PW2 claimant Himani and the evidence of the respondent as RW1 by way of his affidavit Ex. RW1/A, the court of Ld. District Judge, Family Court, Ambala in the impugned findings had dismissed the claim of the wife on the grounds that she was working as Anganwari worker earning Rs 5000/- per month and awarded Rs 2500/- per month to each of the minor children i.e. total Rs 5000/- per month vide orders dated 20.12.2014. The same has been challenged by the husband in this petition by way of criminal revision.

Going through the submissions and appreciating the records and the evidence, the inter-se relationship between the parties is not at all a disputed proposition. The wife admittedly as has been there in the stand before the court below and is so in the arguments of the counsel was working at the relevant time as Anganwari worker and earning Rs 5000/- per month. On the other hand, the children are minor and school going and therefore, needs money for their studies as well as upkeep. The claim of the husband that he was not running a tailoring shop and in fact working a private firm has never been sufficiently established on the record. Rather the stand of the husband appears to be not bonafide and

who inspite of the orders of maintenance having been passed in the year 2014 has failed to abide by the same and till date with effect from 23.4.2012 has not paid a single penny for almost more than 7½ years is itself illustrative of his insolence and arrogance towards obeyance of the orders of the court. It is a matter of common knowledge that now a days education has become a costly affair and so is the day to day necessities. No doubt as has come across to the court below that the wife is working as an Anganwari worker and earning Rs 5000/- per month and that is too meager an amount to hold that she would be able to run the domestic affairs of the family. As has been sought to be argued on behalf of the petitioner side and rather as has been submitted by the respondents' counsel with the growing up of the children their requirements of food, clothing, medicines besides education would show a steady upward trend and which needs to be taken care of. To the specific query of this Court, the learned counsel for the petitioner could not address how the amount so awarded by the court below is on the higher side and rather the desolate wife has not challenged the dismissal of her prayer but the Court by exercising its inherent powers under Section 482 Cr.P.C., keeping in view the requirements of the minor children for the future as well and to ensure that they are not made to fend

for things in the future till they are self-sufficient, it would subserve the ends of justice if maintenance of each of the two children is enhanced to Rs 5000/- per month each from the date of the filing of the present petition. Further-more this Court in view of the fact that the husband has refused to pay maintenance, feels it appropriate to issue directions in the exercise of its inherent powers to the trial/Executing court to ensure that the amount so awarded is recovered in entirety at the earliest. In the light of the same, the present petition stands disposed of.

November 19, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No