

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

CRR No.1347 of 2019 (O&M)
Decided on:- May 30, 2019.

Dr. Manish Goel.

.....Petitioner.

Versus

Dr. Swati.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Raghav Gulati, Advocate
for the petitioner.

Mr. G.S. Sandhu, Advocate
for the respondent.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present criminal revision against the order dated 12.02.2019 passed by learned Judicial Magistrate 1st Class, Faridabad, whereby in a complaint filed by the respondent-wife under Sections 12, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 (for short, the Domestic Violence Act), the respondent-wife has been granted interim maintenance of Rs.15,000/- per month in lieu of residential accommodation.

Challenge has also been laid to the order dated 01.05.2019 passed by learned Additional Sessions Judge, Faridabad, whereby the appeal filed by the petitioner-husband against the order dated 12.02.2019 passed by learned Magistrate, was dismissed.

Learned counsel for the petitioner has argued that the Courts below have wrongly and erroneously directed the petitioner to pay Rs.15,000/- per month towards residential accommodation without appreciating the fact that the petitioner is not having any source of income. Moreover, the respondent-wife is also earning Rs.60,000/- per month and she has been provided a residential accommodation at Kotputli (Rajasthan) by the employer. Therefore, there is no occasion for her to get a residential accommodation in New Delhi.

On the other hand, learned counsel for the respondent-wife has argued that only because the respondent is earning, she cannot be denied maintenance. Moreover, the Courts below have not awarded maintenance separately to the respondent and merely rent amount in lieu of residential accommodation has been awarded to the respondent. Power of attorney filed on behalf of the respondent in Court, is taken on record.

I have heard learned counsel for the parties.

It is a classical case where in order to deprive the respondent from the residential accommodation, the petitioner has transferred his property in the name of his father. This act of the petitioner needs to be deprecated outrightly.

The argument of learned counsel for the petitioner that the petitioner has no income at all cannot be accepted more particularly when he is an MBBS doctor by profession. Moreover, the awarded maintenance is interim in nature. Therefore, this Court finds that there is no illegality in the impugned orders by the Courts below.

The relevant observations made by learned appellate Court in paragraphs No.8 and 9 of the impugned order dated 01.05.2019 justifying the payment for residential accommodation read as under:

“8. *After giving thoughtful consideration to the matter on record, it can be observed that admittedly both appellants are well qualified and into most noble profession of doctor. The allegations which appellant-wife has made are primarily with regard to demand of dowry and act of cruelty for the same and at this stage while granting interim relief, there has to be a very objective assessment of the allegations and use of discretion by Id. Trial court. In the case in hand based upon qualification and economic antecedents, Id. Trial court has declined any sort of maintenance to the appellant-wife and there can be no other opinion in that regard. There is nothing on record to show that there is acute variance in the living standards of the husband and wife so that any negligence on the part of appellant-husband in not maintaining the wife according to status of parties can be considered an act of domestic violence.*

9. *However, Id. Trial court has wisely entered into the question of requirement of appellant wife for an alternate accommodation. Even if it is assumed, though she claims that she has vacated the accommodation provided by her employer at Kotputli, still any accommodation provided to the appellant-wife at Kotputli, where she is working, cannot be considered good enough for her for keeping her household articles and other personal belongings. She cannot be expected to be confined to her place at Kotputli. She has come up with a case that even when she was living with her husband, for at least three days in a week she used to stay at her husband's home in which no more can she reside as admittedly her father-in-law has succeeded in getting the mandatory injunction decree against her for eviction.*

There is no force in the contention of counsel for appellant-husband that ld. Lower court has arbitrarily fixed Rs.15000/- per month in lieu of residential accommodation. Considering status of parties and the minimum facilities required to maintain a reasonable accommodation, Rs.15000/- cannot be said to be arbitrarily high so as to intervene in these appeals.”

Accordingly, affirming the impugned order dated 12.02.2019 passed by the trial Court and the impugned order dated 01.05.2019 passed by the appellate Court, present criminal revision, being devoid of any merit, is dismissed.

May 30, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No