

1.

CRR(F)-276-2016

Date of Decision : 22.08.2019

Vikram Gera

.....Petitioner

versus

Sarika and another

....Respondents

2.

CRR(F)-158-2017

Date of Decision : 22.08.2019

Sarika and another

.....Petitioners

versus

Vikram Gera

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Pankaj Maini, Advocate
for the petitioner (in CRR(F)-276-2016) and
for the respondent (in CRR(F)-158-2017).Mr. Sunil Saharan, Advocate
for the respondents (in CRR(F)-276-2016) and
for the petitioners (in CRR(F)-158-2017).**FATEH DEEP SINGH, J. (ORAL)**

Both these criminal revisions bearing

No. CRR(F)-276-2016 filed by the petitioner/husband-Vikram Gera

and No. CRR(F)-158-2017 filed by the revisionist/wife and minor son, wherein both these matters, same judgment dated 04.05.2016 passed by the Court of the learned District Judge, Family Court, Hisar, is under assail and, therefore, on account of consanguinity of facts are being taken up and disposed off together.

Upon hearing both the sides and on perusal of the records, it is admitted stance of both the sides that marriage between the couple, namely, Sarika and Vikram Gera, was solemnized on 12.08.2012, out of which, a son-Devang, minor, was born to the couple and as a consequence of matrimonial disaccord has led to institution of cases between the couple including criminal prosecution. The wife and the minor child filed an application under Section 125 Code of Criminal Procedure, 1973, seeking maintenance from the husband. The wife claims that she does not have any income nor owns any property and, therefore, needs money for her sustenance as well as of the child. The wife alleges that the husband is working as ASM with Montic Bio-Farm and at the time of filing of the application, was earning ₹30,000/- per month besides which, he was earning from other allied avocations and, therefore, his total earning was ₹80,000/- per month then. The stand of the husband is of total denial. The husband claims that the wife is carrying on sewing and stitching works earning more than ₹7,000/- and denied that he was gainfully employed or owns any movable or immovable property and, therefore, sought to shrug off his obligation towards the

wife and the minor child. The wife in her testimony examine herself as PW-1 by means of attested affidavits PW-1/A reiterated her stand and placed on record copy of the FIR, lodged by her, against the husband and other family members Ex.P-1, medical record Ex.P-2, discharge certificate Ex.P-3, Aadhar Card copy Ex.P-4, school receipt of the child Ex.P-5 and medical record of the minor son Ex.P-6.

The respondent on the other hand had examined himself as RW-1 by means of his affidavit RW-1/A rebutting the case of the wife and given impetus to his stand and placed on record his employment record Ex.R-1. It is consequent thereupon the Court had awarded the wife maintenance to the tune of ₹3,000/- per month and ₹1,000/- per month to the child (in all totalling ₹4,000/- per month) from the date of filing of the application. It is this very order which is being impugned before this Court in these two criminal revisions.

Appreciating the submissions by two sides and in light of the evidence on the records, the short point that arises is a quantum of maintenance to which the wife and the child is entitled as there is nothing suggestive on the records that the wife is gainfully employed. Such like pleas that the wife is carrying on stitching, embroidery etc. has been set up by the other side with an ulterior motive to diminish the effects of the claim of the dependents for a motivated cause. In the instant case, nothing has come on the

record to that effect nor the counsel for the husband could highlight anything in the evidence. On the other hand, the husband admits that he is gainfully employed. It has been rightly held by the Court below that the husband, on his own, has placed on record his employment proof Ex.R-1 claiming to draw a salary of ₹5,000/- per month which has been disbelieved by the Court on the grounds that the same was not acceptable, being much below the daily wages, notified by the Government under the Labour Laws. Even this Court in light of what has sought to be projected by learned counsel for the husband, does not accept it so. The husband is educated, grown up and able-bodied person, who is gainfully employed. Keeping in view that he is not a daily wager, as per his own stand and is working in a Company which is selling medicines/intoxicants/pesticides etc. and, therefore, keeping in view the stark realities of life at the time of decision of this application by the learned Trial Court, his salary by all means would be around ₹10,000/- to ₹15,000/- per month and which must have undergone an increase in light of the trend of rising prices. The amount awarded by the Court below at the rate of ₹3,000/- for the wife and ₹1,000/- for the child, is certainly to the mind of this Court, is a pittance, keeping in view that the child must be going to school for which he needs money to pay for the fees and other subsidiaries, besides his own upkeep and maintenance. The wife needs money for running the household and a roof over her head. More so, with the advancement

of the age, the wife's requirements would increase with the medical needs and that of the child, on account of his educational requirements. The amount, awarded by the Court below, is certainly not legally justified as on date.

In light of what has come about is evidence with some amount of guess work and hypothetical calculations exercising inherent powers and keeping in view the object of the act which is for the betterment of the dependents, it would sub-serve the ends of justice, if the maintenance, so awarded, to wife is enhanced to ₹5,000/- per month and that to the son of ₹4,000/- per month (totalling to ₹9,000/- per month) from the date of filing of the instant revision petition by the wife.

In light of the same, petition filed by the husband is hereby dismissed and so filed by the wife and son, is partly allowed and the impugned order dated 04.05.2016 is thus, modified.

22.08.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No