

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision (F) No. 373 of 2016 (O&M)
Date of decision : May 01, 2019

Sonia

....Petitioner

versus

Chander Bhan

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr.Sanjiv Kumar Yadav, Advocate, for the petitioner
Ms. Sukhpreet Kaur, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

The present revisionist petitioner Sonia instituted against respondent husband Chander Bhan an application under Section 125 Cr.P.C. seeking grant of maintenance. It was vide orders dated 11.11.2014, the court of learned District Judge, Family Court, Ambala while allowing application for interim maintenance granted Rs 4000/- per month as interim maintenance. It is not displaced by any of the sides that during the pendency of this application on 11.12.2015 the wife had made statement withdrawing her main application under

Section 125 Cr.P.C. which stood dismissed as withdrawn. However, subsequently, the wife filed an execution application before the court concerned seeking recovery of the amount of interim maintenance so awarded to her earlier. It was vide impugned orders dated 14.7.2016, the court of learned Additional District & Sessions Judge, District Judge (Family Court), Ambala dismissed the execution application. That is how the parties are before this Court in this revision.

Appreciating the submissions it is by no means put to dispute by the rival sides that provisions of Section 125 Cr.P.C. are welfare in nature with clear-cut purpose of preventing vagaries and destituteness. The same has been brought with the purpose of social and economic upliftment where any person having sufficient means neglects or refuses to maintain the dependents illustrated therein the statutory provision and which also includes the wife. The provision under Section 125 Cr.P.C. are summary in nature where stricter principles of law and Evidence Act need not be applied. It has been rightly argued and asserted by counsel for the revisionist that with the amendment of Section 125 Cr.P.C. brought about with effect from 24.9.2001 provides that any allowance for maintenance which includes interim maintenance and existence for proceedings shall be payable and under the proviso to Section 125(3) Cr.P.C.

mode of recovery of such an amount within one year when the amount became due and on failure of the husband as in the present case necessitates issuance of warrants for the recovery of such an amount. Since the right to seek maintenance has come about with the institution of application for maintenance and till the order of interim maintenance remains and is not displaced that this right would subsist till the main application. The main application for maintenance was withdrawn on 11.12.2015, the order of interim maintenance till then holds good. The court below under the fallacy that if suit is decreed, only then it can be put to execution and not when suit is dismissed as withdrawn, has dismissed the execution of the wife on the grounds that since the main application for maintenance stands dismissed, therefore, no right subsists for her to recover the dues of her interim maintenance. The court remained in total oblivion to the very object and purpose of the provisions which are by way of social upliftment. The right of the wife to seek and recover interim maintenance on the day of filing of the execution application which has crystallised was evidently subsisting and therefore, the court was under obligation to ensure that the wife is able to recover the dues through legal mode unless the same is barred by efflux of time which is not so in the present case. The court below has certainly run into an error. The impugned findings

are certainly perverse in their outcome and illegal in its approach and as such stands set-aside by way of acceptance of the present petition.

May 01, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No