

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. (F) 54 of 2016 (O&M)
Date of decision : November 21, 2019

Mahender Singh

....Petitioner

versus

Kamla and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ashwani Verma, Advocate, for the petitioner
Mr. Ajit Sihag, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

Petitioner husband Mahender Singh aggrieved over an order passed by the court of learned District Judge, Family Court, Hisar dated 3.9.2019 in favour of the respondent then petitioner wife Kamla and minor son Siksha has come up in this petition under Section 482 Cr.P.C.

Upon hearing counsel for the parties and perusal of the records. It is not in any manner the question put to issue as to the inter-se relationship of the respondent and the petitioner/respondent/father. It is the case of the wife and the minor child that they do not

have independent source of income and were totally dependent upon the earnings of the husband/father claiming that the husband was running a dairy farm owning 18 acres of land and therefore, had sufficient means to bear their expenses and day to day necessities. It is the stand of the husband that he was not owning any agricultural land and nor have any income and totally dependent on the earning on farm labour and sought to refute the claim.

The dependents through PW1 Kamla by her affidavit Ex. PW1/A detailed the earnings of the husband and proved on record death certificate of father of the husband Ex. P1; receipt of fee of child Ex. P2 and copy of the jamabandi Ex. P3.

On the other hand, the husband testified as RW1 by means of his affidavit Ex. RW1/A and sought to refute the stand of the wife by placing reliance on Ex. R/1 judgment order dated 12.8.2014, Ex. R2 & R3 copies of jamabandi; Ex. R4 copy of sale deed and Ex. R5 copy of mutation. The court in the light of the evidence allowed the application under Section 125 Cr.P.C. thereby granting Rs 10,000/- per month to the wife and Rs 5000/- per month to the child from the date of filing of the application and it is the same which is sought to be again agitated before this Court.

Upon appreciating the submissions of the two sides it is

admitted stance that the wife along with a minor school going son are living separate from the husband/father who is residing with his widowed mother. Unrebutted on the records through the revenue documents that eight acres of land which were owned by the father of the husband upon his death has devolved upon the present petitioner son. Keeping in view that there is no other semblance of evidence except this fact thus by some amount of guess work and hypothetical calculations keeping in view the normal yield and profits out of such a cultivable land and the relative requirements of the growing up son award of Rs 10,000/- per month to the wife alone, would certainly be on the higher side which certainly pinches the judicial conscience. In the light of the common knowledge and the scenario on the agricultural front that the husband has to maintain himself besides his widowed mother and would certainly also require money for their upkeep as well. On the other hand the son would be growing up needing special diet for his schooling and education besides unforeseen eventualities, it appears that the amount awarded to the son is on the lower side as Rs 5000/- in these escalating prices of essentialities and education would be certainly on the lower side. Thus exercising inherent powers of this Court, in the totality of what is before this Court considering the economic

circumstance and the background of the parties, the amount awarded to the wife at the rate of Rs 10,000/- per month is certainly on the higher side and needs to be capped at Rs 7500/- per month whereas sum of Rs 5000/- per month awarded to the son is certainly meager and is enhanced to Rs 6500/- per month and which would be appropriate in the best interest of the child. In the light of the same, the present petition stands partly allowed, reducing maintenance from Rs 10,000/- per month to Rs 7500/- per month to the wife and enhancing maintenance from Rs 5000/- per month to Rs 6500/- per month to the son. However, it is made clear, as has been canvassed before this Court that other litigations under various provisions are pending between the parties, it would be the discretion of the wife and the minor child to recover only those amounts of maintenance awarded by various courts which they feel appropriate and will not recover the amount in more than one case by way of maintenance allowance.

The revision petition stands disposed of accordingly.

November 21, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No