

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i)

CRR-4121-2017 (O&M)

Varun Aggarwal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

(ii)

CRR-72-2018 (O&M)

Pooja Aggarwal

..... Petitioner

Versus

Varun Aggarwal and others

..... Respondents

Date of Decision : 01.07.2019

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. S.S.Majithia, Advocate
for the petitioner in CRR-4121-2017 and
for respondent No.1 in CRR-72-2018.

Mr. Aayush Gupta, Advocate
for the petitioner in CRR-72-2018 and
for respondent No.2 in CRR-4121-2017.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ SHEKHAR ATTRI, J. (Oral)

This order shall dispose of CRR-4121-2017 (O&M), filed by
Varun Aggarwal and CRR-72-2018 (O&M), filed by Smt. Pooja Aggarwal
against the impugned order dated 06.01.2017, passed by the learned Addl.
Chief Judicial Magistrate, Ludhiana.

On the application of Smt. Pooja Aggarwal, filed under

Sections 12, 17, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 (in short 'the Act'), learned Addl. Chief Judicial Magistrate, Ludhiana, vide order dated 06.1.2017, directed Varun Aggarwal to pay a sum of Rs.3,000/- per month to the wife-Pooja Aggarwal and further to pay equal amount to the son namely Shaurya, as maintenance from the date of the petition.

The said order has been challenged by filing separate appeals i.e. CRA-22 dated 17.02.2017, filed by Smt. Pooja Aggarwal and CRA-06 dated 22.02.2017, filed by Sh. Varun Aggarwal. However, both the said appeals have been dismissed vide order dated 04.09.2017, passed by the learned Addl. Sessions Judge, Ludhiana.

Both the parties have impugned the said orders dated 06.01.2017 and 04.09.2017. Varun Aggarwal-husband has taken the plea that Pooja Aggarwal-wife has source of income and she can easily maintain herself as well as her minor son.

I have heard learned counsel for the parties and have gone through the record.

It will not be out of place to mention here that most of the times the case of the husband is that he has no source of income. Rather, he is working as an employee under the business concern of his father. This plea has also been adopted by him consecutively before all the courts. This Court would like to reproduce para No.7 of the petition hereunder:-

“That the petitioner is having meagre income of Rs.8000/- per month and he alongwith his father is staying in a 70 sq. Yds. House. Father of the petitioner is into the business of manufacturing blankets in the name and style of M/s Panchratan Fabrics Gaushala Road, Ludhiana. Father of the

petitioner is sole proprietor of the said firm and petitioner is an employee with him on a monthly salary of Rs.8000/- per month. Even father of the petitioner is not earning too much since the whole family is staying only in 70 square yards house.”

However, this Court, vide order dated 02.04.2019, asked the Commissioner of Income Tax to produce the income tax returns of M/s Panchratan Fabrics to clarify the position.

From the bare perusal of the income tax returns and report of the income tax officer, it transpires that Sh. Varun Aggarwal has not only conealed the real facts from this Court, rather he played a fraud with the courts below and this court as well as with his wife and minor son by conealing the truth.

From the bare perusal of the affidavit of Rajesh Gupta, Income Tax Officer, Ludhiana, it becomes more than apparent that Varun Aggarwal having PAN number i.e. PAN-AHBPA2653H has filed the return for the period 01.04.2010 onwards which reads as under:-

Sr.No.	Financial Year	Assessment year	Gross income declared (in Rs.)	Net income declared (in Rs.)
1.	2010-11	2011-12	1,60,297/-	1,57,090/-
2.	2011-12	2012-13	As per system, no return was filed	
3.	2012-13	2013-14	1,86,980/-	1,84,730/-
4.	2013-14	2014-15	1,70,952/-	1,68,600/-
5.	2014-15	2015-16	2,81,400/-	2,81,350/-
6.	2015-16	2016-17	3,00,250/-	3,00,000/-
7.	2016-17	2017-18	3,34,275/-	3,29,360/-
8.	2017-18	2018-19	4,03,503/-	4,03,440/-
9.	2018-19	2019-20	71,957/-	71,840/-

For the relevant years starting from the years 2017-18, the maximum net income has been shown as Rs.4,03,440/-, for the year 2016-17 Rs.3,29,360/- and for the year 2015-16 Rs.3,00,000/-. However, in the year 2018-19, he has shown his income as Rs.71,840/-.

The firm M/s Panchratan Fabrics Gaushala Road, Ludhiana is having a separate PAN number and it filed separate income tax returns.

The purpose and object of granting maintenance to destitute women and children is to provide social justice to them and to prevent vagrancy by compelling those who can support those, who are unable to support themselves. The philosophy of social justice, as engraved in our constitution, is multi facet - which demands rightness and fairness in all the fields of life - which includes the political, the moral, religious and the social. If the women of the country are undermined then the concept of social justice will certainly erode. Hon'ble Supreme Court in Richa Mishra vs. State of Chhatisgarh (Law Finder Doc Id 740568). has observed as under:-

“It is now realised that there is a bidirectional relationship between economic development and women's empowerment defined as improving the ability of women to access the constituents of development- in particular health, education, earning opportunities, rights, and political participation. This bidirectional relationship is explained by Prof. Amartya Sen by propounding a theory that in one direction, development alone can play a major role in driving down an equality between men and women; in another direction, continuing discrimination against women can hinder development. In this scenario, empowerment can accelerate development. From whichever direction the issue is looked into, it provides justification for giving economic empowerment to women. It is,

for this purpose, there is much emphasis on women empowerment (as it leads to economic development) by United Nations World Bank and other such Bodies. Interestingly, the 2012 World Development Report (World Bank 2011) adopts a much more nuanced message. While it emphasizes the "business case" for women empowerment, it mainly takes it as given that the equality between women and men is a desirable goal in itself, and policies should aim to achieve that goal. Poverty and lack of opportunity breed inequality between men and women, so that when economic development reduces poverty, the condition of women improves on two counts: first, when poverty is reduced, the condition of everyone, including women, improves, and second, gender inequality declines as poverty declines, so the condition of women improves more than that of men with development. Economic development, however, is not enough to bring about complete equality between men and women. Policy action is still necessary to achieve equality between genders. Such policy action would be unambiguously justified if empowerment of women also stimulates further development, starting a virtuous cycle. Empowerment of women, thus, is perceived as equipping them to be economically independent, self-reliant, with positive esteem to enable them to face any situation and they should be able to participate in the development activities."

Nothing is on record to establish if Smt. Pooja Aggarwal has any earning capacity or is having any independent source of income. The mere allegation that she is having higher qualification of Master in Computer Application, is no ground to disentitle her from maintenance.

In this view of the matter, the CRR-4121-2017, filed by Varun Aggarwal is without any substance and is hereby dismissed with costs of Rs.25,000/- which shall be paid to Smt. Pooja Aggarwal in her bank account within a period of one month; whereas the CRR-72-2018, filed by

Smt. Pooja Aggarwal is allowed. Varun Aggarwal is directed to pay Rs.30,000/- per month to her and Rs.20,000/- per month to her son namely Shaurya, as maintenance from the date of petition filed before learned court below. Smt. Pooja Aggarwal will also have the liberty to initiate criminal proceedings against Varun Aggarwal for committing frauds with all the courts by concealing his income deliberately.

01.07.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable :</i>	<i>Yes/No</i>