

**116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2132-2019

Date of Decision: 30.08.2019

Shiv Kumar

.....Petitioner

versus

Shikha Rani

..... Respondent

CORAM : HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Anuj Garg, Advocate for the petitioner.

HARI PAL VERMA, J. (Oral)

Petitioner-husband has filed the present revision petition against the judgment dated 17.07.2019 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri whereby his appeal against the order dated 07.03.2019 passed by learned JMIC, Yamuna Nagar at Jagadhr, was dismissed.

Vide order dated 07.03.2019 learned Magistrate has awarded interim maintenance to the respondent @ Rs. 8000/- per month from the date of passing of the order.

Counsel for the petitioner has argued that the petitioner is working as a Sewer Man with Public Health Engineering Department, Haryana and the learned Magistrate vide his order dated 07.03.2019, while deciding the application filed by the respondent under Section 12 of the Protection of Women from Domestic Violence Act, has granted interim maintenance at the rate of Rs 8000/- per month to the respondent.

Counsel has referred to the pay slip issued by the department in July, 2019

(Annexure P-5) to contend that net payable salary of the petitioner is Rs. 18,350/- per month whereas he is required to maintain his old and ailing parents. The awarded maintenance is quite exorbitant. The petitioner has availed loan and he is required to repay the loan amount. In this manner it is difficult for the petitioner to pay such an exorbitant amount of maintenance i.e. Rs. 8000/- per month to the wife. Further stated that the petitioner is ready to settle the dispute with the wife for all times to come.

Heard counsel or the petitioner.

Vide order dated 7.3.2019 the learned Magistrate has awarded maintenance to the tune of Rs. 8000/ per month to the respondent from the date of the order. The relevant para reads as follows:-

“ In the present case, factum of marriage between the petitioner and respondent No.1 is not in dispute as same is admitted by respondent No.1 in his written statement. So far as allegations of committing atrocity, demand of dowry levelled in the petition and the defence taken by the respondents in reply are concerned,same are to be taken into consideration after taking evidence from both side. Since the marriage is not in dispute between the petitioner and respondent No.1, so, he is legally and morally bounden duty to keep and maintain the petitioner. It is also an admitted fact that respondent No.1 is serving in Health Department, Water Branch, Naraingarh (Ambala) and as such, respondent no.1 is a Government employee. Neither petitioner nor respondent No.1 has placed on record copy of salary slip of respondent No.1. Petitioner has alleged the monthly salary of respondent No.1 as Rs. 40,000/- per month whereas respondent No.1 has submitted in his written statement that his salary is Rs. 18,652/- per month. In the absence of salary slip, admission of respondent no.1 is a prima facie best evidence to consider his income as Rs. 18,652/-per month. Respondent No.1 has pleaded that he is

also having the liability to maintain his parents also but this contention is not sustainable to decline the claim of maintenance of petitioner. Respondent No.1 being husband of petitioner is under legal obligation to keep and maintain the petitioner. Therefore, request of petitioner granting her monthly maintenance amount is hereby allowed. Accordingly, respondent No.1 is hereby directed to pay a sum of Rs. 8,000/- per month as interim maintenance to the petitioner from the date of this order. So far as request of petitioner to provide accommodation to her in shared household is concerned, it is pertinent to mention here that title deed of shared household has not been placed on record by the petitioner and in the absence of same, this court is unable to ascertain rights of respondents in the said house and in such circumstances, request of petitioner to provide her separate accommodation in shared household is declined.

Now, the case is adjourned to 11.04.2019 for arguments on application for deleting the name of respondent No.2 and 3 as well as payment of interim maintenance amount.”

The order dated 7.3.2019 passed by learned Magistrate was challenged by way of an appeal and the learned Appellate Court while dealing with the contentions of the petitioner and considering his salary as Rs. 17,382/- per month, has maintained the interim maintenance awarded by learned Magistrate. Moreover, the respondent is also required to maintain a minor child. The gross salary of the petitioner is Rs. 22,340/- per month, as is apparent from salary slip (Annexure P-5) and after deductions the carry home salary is Rs. 18,530/- per month. Therefore, when the respondent is required to maintain herself and her minor son, this Court finds that the awarded maintenance is not on higher side.

However, as regards the submission made by learned counsel for the petitioner that the petitioner is ready to settle the dispute with his wife, this Court has no doubt in its mind that if such like submission is made before the trial Court where the lis is pending, the trial Court shall definitely explore the possibility of such compromise between the parties before finally adjudicating the matter on merit. It being interim maintenance in nature and not exorbitant, no interference is called for.

Petition is dismissed.

(HARI PAL VERMA)
JUDGE

30.08.2019
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No