

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR (F) No. 350 of 2017 (O&M)

Date of decision : 24.5.2019

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Harwinder Singh

.....Petitioner

vs.

Tarsem Kaur and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sandeep Jain, Advocate for the petitioner.

Mr. Ishaan Gupta, Legal Aid counsel for the respondents.

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H. S. Madaan, J.

CRM-17152-2019

By filing the present application, the document sought to be placed on record do not have much relevance with regard to adjudication of the controversy in hand and the application has been filed belatedly, after addressing the arguments.

The application stands dismissed.

Main case.

Petitioner – Tarsem Kaur, aged about 45 years, wife, Harmeen Kaur, aged about 23 years, Jasmeen, aged about 20 years daughters and Amritpal Singh, aged about 16 years, minor son of Harwinder Singh – respondent, had filed a petition under Section 125 Cr.P.C. for grant of maintenance before District Judge (Family Court), Shaheed Bhagat Singh Nagar.

On notice, the respondent initially appeared through counsel, subsequently, he absented from the court proceedings. Ultimately, he was proceeded against ex parte vide order dated 19.7.2017.

After recording ex parte evidence, the trial Court accepted the application vide order dated 27.7.2017. The relevant portion of the order is reproduced as under:-

“12. From the material on record, it is clear that petitioners are unable to maintain themselves and petitioners have no source of income, immovable or movable property to maintain themselves. Though it has been argued by learned counsel for petitioners that respondent is renowned transporter and an agriculturist, thereby earning more than Rs.3,00,000/- per month, but there is no documentary evidence on record showing the exact income of respondent. However, respondent being legally wedded husband of petitioner No.1 and father of petitioners No. 2 to 4 is legally, as well as, morally bound to maintain them even though he is not working. Of course, there is no documentary evidence relating to income of respondent to be Rs.3,00,000/- per month. Admittedly, respondent is able bodied person. In this part of country, even a labourer earns around Rs.300/- to Rs.500/- per day by doing manual labour. As such, respondent can not escape his liability to maintain the

petitioners. Provision under Section 125 Cr.P.C is a benevolent provision and same has been enacted to save the wives and children from starvation and vagrancy.

13. In the light of discussion made herein above petition u/s 125 Cr.P.C. is hereby allowed and respondent is directed to pay the maintenance to the tune of Rs.3,500/- per month to the petitioner No.1 and Rs.2,000/- per month each to the petitioners No.2 to 4 from the date of filing the petition. He is also directed to pay an amount of Rs.3,000/- as litigation expenses. Petitioners No.2 and 3 are entitled to the maintenance awarded till the date of their marriage and petitioner No.4 is entitled to the maintenance awarded till the date of attaining age of majority. Amount of interim maintenance and litigation expenses, if any already paid, be adjusted against maintenance and litigation expenses awarded finally. Copy of this order be given to the parties, fee of cost. File be consigned to the record room after due compilation.”

The respondent felt aggrieved by that order and he has filed the present revision petition before this Court praying that the order granting maintenance to the petitioners be set aside.

Notice of the petition was given to the respondents, who

have put in appearance through counsel.

It may be mentioned here that petition under Section 125 Cr.P.C. had been filed by the petitioners who are wife and children of Harwinder Singh present revisionist on 8.3.2017. On getting notice, he had appeared there, but subsequently, he absented from court and was proceeded ex parte vide order dated 19.7.2017. After recording ex parte evidence, the petition was accepted and respondent was directed to pay maintenance to the tune of Rs.3,500/- per month to petitioner No.1 and Rs.2,000/- per month each to petitioners No. 2 to 4 from the date of filing of petition, besides Rs.3,000/- as litigation expenses, vide order dated 27.7.2017.

The grouse of the respondent is that the written reply filed by him was not taken into consideration by the trial Court. It may be so but then respondent has to explain his own conduct as to why after putting in appearance in the court, he abruptly stopped attending the dates of hearing, as such was proceeded against ex parte. The trial Court on analysis of evidence produced before it, keeping in view ages of the petitioners, their financial requirements and monetary condition of the respondent had awarded maintenance. The contention of learned counsel for the revisionist that the revisionist is just a truck driver and he is unable to pay the maintenance awarded by the trial Court cannot be accepted. It may be mentioned here that vide order dated 10.7.2018, revisionist- petitioner was directed to pay arrears of maintenance by next date of hearing positively, which was fixed for 31.8.2018, but he has not complied with that order. Rather

an application for modification for recalling of that order has been filed. That application is absolutely without any merit.

Keeping in view the ages of the petitioners, their requirements and that the petitioners Harmeen Kaur and Jasmeen, daughters are stated to be studying and still un-married, Amritpal Singh, minor son also engaged in studies and when cost of education, specially higher education is getting prohibitive and even things of basic needs are getting costly these days, the maintenance awarded cannot be said to be on higher side, specially, when it is a specific case of the petitioners, that the revisionist is a renowned transporter and agriculturist earning more than Rs. 3 lacs per month, though these contentions are being denied by the revisionist. The conduct of the revisionist in appearing before the trial Court and then absenting himself and before this Court not complying with the direction issued to him to clear the arrears of maintenance, dis-entitles him to grant of any relief.

Furthermore, the order under revision is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein, much less apparent on the face of it. The revision petition lacks merit and is dismissed accordingly.

24.5.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No