

208.

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

CRM-M-1133-2019

Date of decision:04.07.2019

KRISHAN KUMAR @ PAPPU

... Petitioner

versus

PUSHPA DEVI AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. J.P. Sharma, Advocate,
for the petitioner.

Mr. Naresh Singh Shekhawat, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for setting aside the order dated 16.01.2017 (Annexure P-1) and order dated 24.01.2018 (Annexure P-2) whereby the application filed by the respondents under Section 127 Cr.P.C. was allowed and the maintenance to the respondents has been enhanced upto Rs.10,000/- per month by the learned Additional Sessions Judge, Narnaul.

Vide order dated 16.01.2017, learned Sub Divisional Judicial Magistrate, Kanina, had enhanced the maintenance of each of the respondents from Rs.1,000/- per month to Rs.3,000/- per month. Dissatisfied with the said amount of maintenance, the respondents filed a revision petition and the learned Additional Sessions Judge, Narnaul, vide his order dated 24.01.2018, keeping in view the inflation, health condition of

the respondents and the salary of the petitioner-husband, enhanced the amount of maintenance to Rs.10,000/- per month each to the respondents.

Aggrieved against the orders of the courts below whereby the amount of maintenance has been enhanced and the respondents have been held entitled maintenance Rs.10,000/- per month to each of the respondent, the petitioner has filed the present petition.

While issuing notice of motion in the case on 14.01.2019, this Court had found the amount of maintenance granted to respondent No.1- wife @ Rs.10,000/- per month as justified and accordingly, the present petition qua respondent No.1 was dismissed as not pressed.

As regards respondent No.2-Shyam Sunder, who is the son of the petitioner, counsel for the petitioner had argued that respondent No.2 is not of unsound mind. He is major (35 years of age) and has passed ITI. He is employed and has an independent source of income. The amount of maintenance awarded to respondent No.2 @ Rs.10,000/- per month is on higher side. He has disputed the very disability of respondent No.2 and accordingly, in order to assess his disability, vide order dated 09.04.2019, the Civil Surgeon, Narnaul was directed to constitute a Medical Board. The order dated 09.04.2019 reads as under:-

“Power of attorney filed on behalf of the respondents today in the Court, is taken on record.

Learned counsel for the petitioner has argued that respondent No.2-Shyam Sunder is not of unsound mind. He has passed ITI. He is about 35 years of age thus major. He was issued a physically handicapped certificate dated 23.03.2005 by the Civil Surgeon, Narnaul, showing border line deformity and the permanent disability was assessed as 25%, as per Haryana Govt. norms. The disability certificate was valid for 03 years

from the date of its issuance. After the expiry of period of 03 years, the certificate has lost its validity.

At this stage, Mr. Shekhawat, learned counsel appearing for the respondents states that said respondent No.2 is still possessing disability and is getting regular treatment. He further states that respondent No.2 has not passed his ITI as being alleged by the petitioner.

Accordingly, the case is adjourned to 04.07.2019. However, in order to ascertain the present disability/deformity of the respondent No.2, the Civil Surgeon, Narnaul, is directed to constitute a Medical Board, so as to assess the disability of respondent No.2, if any.

Respondent No.2 is directed to appear before the Civil Surgeon, Narnaul, on 25.04.2019 along with all relevant records.

The Civil Surgeon, Narnaul, shall constitute the Medical Board after the appearance of respondent No.2, and shall issue a certificate as regards the deformity of respondent No.2, if any.

Interim order to continue.”

Pursuant to the order dated 09.04.2019, Mr. N.S. Shekhawat, learned counsel appearing on behalf of respondent No.2, has produced a photocopy of disability certificate issued by the Medical Board headed by Civil Surgeon, Narnaul, dated 27.06.2019. As per the medical certificate, respondent No.2 carries “99% physical impairment/mental disability”.

Since respondent No.1 is a legally wedded wife of the petitioner, though divorced, and respondent No.2 is the son out of this wedlock, considering the salary of the petitioner as Rs.70,000/- per month, this Court finds that no interference is warranted in the order dated

respondent No.2 has also been awarded maintenance @ Rs.10,000/- per month.

Photocopy of the medical disability certificate so produced by learned counsel for respondent No.2, is taken on record.

Accordingly, the present petition stands dismissed.

(HARI PAL VERMA)
JUDGE

04.07.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No