

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

CRM-M-11543-2019 (O&M)
Date of decision: 03rd November, 2020

Amit

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Monika Thakur, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana. (check attendance)

ANIL KSHETARPAL, J.

This petition under Section 482 of the Code of Criminal Procedure read with Articles 226/227 of the Constitution of India has been filed seeking the quashing of the impugned order passed by the learned Judicial Magistrate Ist Class, Palwal which has been affirmed in the appeal with slight modification by the learned Additional Sessions Judge.

An application filed by the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 has been decided while directing the petitioner to pay maintenance @ Rs.10,000/- per month.

Some facts are required to be noticed.

The petitioner and respondent no.2 were married on 06.04.2008. The married couple was blessed with a son on 15.03.2009. In other words, the son-Taksh @ Tanishq is now more than 11 years old. Respondent no.2 and Taksh @ Tanishq are not residing with the petitioner.

On the other hand, the petitioner being the only son of his

parents, is residing with his parents and a sister. It has been established on the record that the petitioner along with his father is running a shop under trade name M/s Amit Khaddi Bhandar in ancestral property bearing no.179, New Anaj Mandi, Palwal. The family also owns two residential premises apart from a small piece of agricultural land. Although, the petitioner has made efforts to claim that he is working as a salesman doing odd jobs, however both the courts on appreciation of evidence have found that the petitioner is working with his father in the shop referred to above. They are into trading of fabrics (cloth). Both the Courts on appreciation of evidence have also found that the family of the petitioner maintains sufficiently good standard of living. When the petitioner filed an application claiming custody, he pleaded that respondent no.2-wife has no source of income, whereas the petitioner is earning sufficient income. Learned appellate court while referring to the statement of accounts of Oriental Bank of Commerce of his parents has recorded a finding that on 14.03.2010 cash of Rs.3,00,000/- was deposited. Whereas, on 02.04.2011, cash of Rs.1,00,000/- was deposited. Again on 26.05.2011, Rs.2,00,000/- was deposited. The court has also found that respondent no.2 is also working as a teacher in private school and her income was around Rs.11,000/- per month.

Keeping in view the aforesaid facts, learned courts have concurrently granted maintenance @ Rs.10,000/-. The Appellate Court has slightly modified the award of maintenance and held that the petitioner herein is only liable to pay, whereas, the award of maintenance against Sh. Lakshman Dass, the petitioner's father, is not sustainable.

This court has heard learned counsels for the parties at length

and with their able assistance perused the paper book.

Learned counsel for the petitioner has forcefully submitted that respondent no.2-wife is working as a teacher and, therefore, the maintenance awarded is on the higher side.

Per contra, learned counsel for respondent no.2-wife has contended that she at one point of time was working as a teacher, however, due to spread of Covid-19, the schools were closed down and therefore, respondent no.2 is now jobless.

This court has considered the submissions and analyzed the arguments of learned counsels for the parties.

In the considered view of this Court, the petitioner has failed to make out any ground for interference for the following reasons:-

- (1) Both the courts on appreciation of evidence and material have concurrently held that the petitioner has sufficient income. He is well educated i.e. M.Com and able bodied. The family of the petitioner is living a comfortable life with reasonably good standard. The shop and the two residential houses are owned by the family. This court does not find that the orders passed by the courts below suffer from any material irregularity or legal infirmity.
- (2) Now Taksh @ Tanishq, the son of the petitioner and respondent no.2 has grown. He is stated to be studying in a good school. In these circumstances, award of Rs.10,000/- towards maintenance even if considered with reference to child, cannot be said to be excessive.

- (3) While exercising jurisdiction under Section 482 of the Code of Criminal Procedure or Articles 226/227 of the Constitution of India, the jurisdiction of the court to interfere in the orders passed by the courts below is limited. In the absence of any perversity in the orders passed by the courts, this court does not find it appropriate to interfere.

Keeping in view the aforesaid facts, there is no ground to interfere. Hence, the present petition is dismissed.

03rd November, 2020
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No