

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

Sr. No.226

CRR-955-2019

Date of decision: 28.01.2021

Sukhwinder Singh

....Petitioner

versus

Shalini

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Anju Arora, Advocate
for the petitioner.

Mr. APS Sandhu, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

The present petition is directed against the order dated 02.08.2018 passed by the Judicial Magistrate, Ist Class, Amritsar (for short – the Trial Court) through which the petitioner-husband was directed to pay interim maintenance to the respondent-wife @ Rs. 10,000/- per month and to their minor child who is in the custody of the respondent-wife @ Rs.7500/- per month. Also under challenge is the order dated 04.12.2018 passed by the Additional Sessions Judge, Amritsar (for short – the Appellate Court) through which the petitioner's appeal filed by him against the aforesaid order of the Trial Court was dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that on 22.04.2015, the petitioner and respondent No.1 got married at Amritsar. Out of the wedlock, on 23.07.2016, a male child namely Gursirat Singh was born. Soon thereafter,

due to alleged harassment and demands of dowry at the hands of the petitioner and his family members, the respondent-wife came to her parental house and instituted proceedings against the petitioner including proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short – the 2005 Act). In such proceedings, an application was filed by the respondent-wife seeking interim maintenance which was allowed by the Trial Court on 02.08.2018 and as a result whereof the petitioner was directed to pay to the respondent-wife interim maintenance @ Rs.10,000/- per month alongwith monthly payment of Rs.7500/- for the minor son of the parties alongwith litigation expenses. The petitioner challenged the order of the Trial Court by way of an appeal which was dismissed by the Appellate Court on 04.12.2018 occasioning the filing of the present petition.

Learned counsel for the petitioner submitted that the respondent-wife is serving as a Teacher/Lecturer in Jawahar Navodaya Vidyalaya, Faridkot which employment earns her a handsome salary @ Rs.70,000/- per month and that the very proceedings under the 2005 Act are illegal as the same are a counter blast to the complaint filed to the police by the petitioner-husband against the respondent-wife.

Learned counsel for the respondent-wife submits that when the respondent-wife filed an application under the 2005 Act she was unemployed. Later, since she did not have any support from the petitioner she sought and got a job through which she earned a monthly salary of Rs.53,948/- and since the petitioner-husband at that time was earning a monthly salary of Rs.71,766/-, which presently is more than Rs.90,000/- per month, he is required to maintain the respondent-wife and also the minor

son of the parties. It is further submitted that the challenge to the proceedings under the 2005 Act is misconceived and that the present proceedings are only for interim maintenance.

The issue with regard to maintainability of the proceedings under the 2005 Act, which have been instituted by the respondent-wife, is pending final adjudication before the Trial Court and during the pendency thereof the present proceedings, for payment of interim maintenance are competent.

The interim maintenance granted by the Trial Court and upheld by the Appellate Court @ Rs.10,000/- per month to the respondent-wife and @ Rs.7500/- per month to the minor child of the parties do not warrant any interference by this Court as the record clearly reveals that at the time when the respondent-wife had filed the proceedings under the 2005 Act she was unemployed and even after her employment was earning much less than the petitioner-husband. Respondent-wife's employment entitled her to a monthly salary of about Rs.54,000/- whereas at the same time the petitioner-husband's monthly salary was about Rs.72,000/- which is presently more than Rs.90,000/-. Even otherwise, the minor child of the parties, who is aged 5 years, is with the respondent-wife and a cumulative monthly sum of Rs.17,500/- coming to the respondent-wife and the minor 5 years old school going child of the parties from the petitioner, who is admittedly earning over Rs.90,000/- per month, is found to be reasonable.

Dismissed.

(DEEPAK SIBAL)
JUDGE

January 28, 2021
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No