

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

(119)

CRR-1086-2022 (O&M)

Date of decision: 23.05.2022

Aman Sahni

...Petitioner

Versus

Hemlata Bhola and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gaurav Soni, Advocate
for the petitioner.

...

SUVIR SEHGAL, J.

Instant petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”) impugning order dated 25.04.2022 passed by the learned Additional Sessions Judge, Yamuna Nagar, whereby an appeal filed by the petitioner against order dated 06.08.2021 (Annexure P-1) passed by JMIC, Yamuna Nagar, directing the petitioner to pay interim maintenance of Rs.3500/- per month to respondent No.1, has been dismissed.

Facts, in brief, leading to the filing of the petition are that respondent No.1 has approached the Trial Court with a petition filed under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short “the DV Act”) claiming that her marriage was solemnized with the petitioner on 17.03.2019 and she brought gold jewellery, Rs.2.50 lacs in cash, which was entrusted to the family members of the petitioner. After solemnization of

marriage, they stayed together at Jagadhri. In the month of May 2019, the petitioner and his family members started mal-treating her and demanded Rs.10 lacs. On 21.07.2019, she was turned out of the matrimonial home. She claimed that she has no source of income, whereas the petitioner, who is working in a private factory, drawing a salary of Rs.50,000/- per month, has refused to maintain her. She has claimed monthly interim maintenance allowance of Rs.20,000/- from the petitioner, besides, restraining him from alienating the shared household and compensation of Rs.2 lacs for mental harassment and physical abuse.

Petitioner contested the petition by filing a reply. He submitted that he was a minor on the day of marriage and a petition for declaring the marriage as nullity has been filed. Contesting the claim, he submitted that after the marriage, they resided together at Bhilwara, Rajasthan and mother of respondent No.1 lodged an FIR alleging that she had run away with the petitioner. It has been submitted that the petitioner has given an application requesting for cancellation of the FIR. It has further been submitted that he is unemployed and is unable to maintain himself and a social organization is providing him education as his parents have ousted him from their properties and rather respondent No.1 is running a boutique and has a handsome income. A separate reply has been filed on behalf of respondent No.2, who is the father-in-law of respondent No.1, submitting that respondent No.1 and the petitioner never resided with him and he has no concern with them. It has been submitted that marriage was solemnized without his knowledge, the

residential house belongs to him, which he had purchased in 2011 and that the respondent No.1 has no right, title or claim in the same. On an application seeking interim relief, filed by respondent No.1, the Trial Court vide order (Annexure P-1) directing the petitioner to pay Rs.3,500/- per month as interim maintenance from the date of filing of the petition, but rejected her claim for compensation and held that the same shall be decided after the parties lead their evidence. This order has been upheld in appeal by the learned Additional Sessions Judge. Both the orders are under challenged in this petition.

Heard counsel for the petitioner.

In his reply, the petitioner has not denied the marriage with respondent No.1. His assertion that the marriage is a nullity as he was a minor at the time of marriage, is yet to be determined as petition for declaring the marriage as a nullity, is stated to be pending. Rather, in his stand taken before the Courts below, he has admitted that he and respondent No.1 had stayed together, though, he claims that they cohabited at Rajasthan. Furthermore, lodging of FIR No.656 dated 13.11.2019 under Sections 498-A, 406, 323 and 506, IPC by respondent No.1 is an indicator of the fact that she has probably been a victim of domestic violence at the hands of the petitioner and other accused.

In view of these facts, this Court is prima facie satisfied that respondent No.1 is entitled to claim interim maintenance from the petitioner, who is her husband. Both the parties have, however, not led any evidence regarding their source of income. However, the

petitioner cannot be permitted to absolve himself from the responsibility of maintaining his wife. There is nothing on record to show that he is not an able bodied person or is not in a position to earn his livelihood.

In view of the above background, this Court is of the view that award of monthly interim maintenance of Rs.3,500/- is justified and does not require any interference in the exercise of revisional jurisdiction by this Court.

Finding no illegality or infirmity in the orders passed by the Courts below, instant petition is ordered to be dismissed.

Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case and the petition filed by respondent No.1 under the DV Act shall be decided by the learned Magistrate on its own merit, uninfluenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

23.05.2022
Pardeep

Whether speaking/ reasoned	Yes
Whether Reportable	Yes