

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

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CRM-M-50588-2022

Date of Decision: 16.01.2023

Baljit Kaur**...Petitioner****Versus****State of Punjab and Another****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Vikas Gupta, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 482 Cr.P.C. is seeking setting aside of judgment dated 25.11.2021 (Annexure P-1), whereby Sessions Judge, Tarn Taran, has set aside judgment dated 24.07.2019 passed by Sub-Division Judicial Magistrate, Patti, whereby SDJM, Patti, had granted maintenance of Rs.5,000/- per month to the petitioner.

The marriage between the petitioner and respondent No.2 was solemnized on 05.09.2015 according to Sikh rites and ceremonies. The petitioner was previously married with Gurpreet Singh and from whom she got divorced on 03.07.2014. The petitioner could not stay with respondent and started staying with his sister in her own house. The petitioner preferred petition under Section 125 Cr.P.C. seeking maintenance. SDJM Patti, vide order dated 24.07.2019 awarded maintenance of Rs.5,000/- per month to the petitioner. The respondent

preferred revision petition before Sessions Court assailing order dated

24.07.2019 which came up for consideration before Session Judge, Tarn Taran, who vide impugned judgment dated 25.11.2021 has set aside judgment dated 24.07.2019 passed by the Trial Court.

Learned counsel for the petitioner, *inter alia*, submits that respondent No.2 is running a mobile shop and earning Rs.1 Lac per month, thus he is legally and socially responsible to maintain the petitioner and amount of maintenance awarded by the Trial Court was a meager amount still Revisionary Court has set aside well-reasoned order passed by Trial Court.

I have heard learned counsel for the petitioner and scrutinized the record.

The relevant extracts of impugned judgment read as:-

11. Careful perusal of respective affidavits of assets and liabilities, filed by revisionist-husband and applicant-wife reveals that revisionist-husband is staying with his brother and has shown his income as Rs.3000/- per month with his mode of travel being bus/train and the status of family being middle. Revisionist-husband apparently does not own vehicle or any movable assets. The applicant-wife has revealed her annual income as Rs.25,000/- from agricultural land and the existence of four Kanal area on which joint house with her sister Rajbir Kaur is constructed. Applicant-wife has one saving bank account, owns a motorcycle and an Activa. With respect to the hospital opted for her medical treatment, she has disclosed that she gets her treatment from Fortis Escort Hospital, Amritsar. She also placed on

record tuition fee record with respect to her son Gurshehnaj Singh showing expenditure of Rs.20-25000/- per month on the child.

*12. Apart from the said respective affidavits there are on record income tax returns. The applicant-wife for the year 2017-18 and 2018-19 has showed her income of Rs.2,66,014 and Rs.2,93,012/-, respectively. On the other hand revisionist-husband has placed on file his relieving-cumexperience certificate, dated 25.03.2019, regarding acceptance of his resignation from the service with effect from 22.12.2018. Though, the applicant-wife has pleaded that revisionist-husband is running a shop in the name and style of Sharma Mobile Center Lahore Road, Near Kullah Chowk, Patti, no such document showing the proprietorship of said shop, being with the revisionist-husband, has been placed on record. Rather, the revisionist-husband has relied upon the proclamation, published by his parents, regarding disinheriting him from family in the year 2015 itself. There is on record an FIR dated 15.12.2012, lodged by applicant-wife against one Rajinder Singh, under Sections 452,354,506 IPC in which cancellation report was accepted by the court on 03.04.2015 after the applicant-wife gave her no objection to the acceptance of said cancellation report. There are on record certain romantic chats of the applicant-wife with Sone, Nazma and JIII in which applicant-wife is seen with different persons. In deed, this is not the stage to comment upon the merits of case nor the mere fact that applicant-wife has some amount in her saving bank account can stand in her way to claim maintenance as held in case **Sukhdev Raj Sharma Vs. Kanchan Bala***

Criminal Revision No. 973 of 1999, decided on 24.09.1999.

13. The court, however, has to take a holistic view of the entire matter and to look into material produced on record by the parties to arrive at some satisfaction about the inability of the wife to maintain herself and neglect on the part of husband to provide maintenance to the destitute wife, who claims to be the victim of misbehaviour and misconduct at the hands of her husband and in laws. In the instant case, whereas, on the one hand, the applicant-wife states that revisionist-husband had adopted her son born from first marriage, on the other hand, she alleges that there was demand for dowry from the parents of revisionist-husband, which would have not been possible, if at all, the revisionist-husband was so large hearted that he adopted the child born to his wife from her first marriage. The possibility of such a husband raising quarrel on account of dowry seems to be quite remote. There is on record report, dated 11.12.2015, given by DSP Sub Division Patti to SSP, Tarn Taran, regarding the application moved by Baljit Kaur against her husband Vinod Kumar revisionist, which application was withdrawn by the wife on the ground that the same was given under some misunderstanding. There is also on record application dated 23.09.2015, in which she has stated that she, alongwith her husband Vinod Kumar, was staying in her own residential house since 12.09.2015 and that on 19.09.2015 her husband left the said residential house of applicant-wife. The said application was withdrawn by the applicant-wife lateron.”

From the perusal of findings recorded by the Revisionary Court, it is quite evident that there is no evidence of earning by respondent No.2 whereas petitioner had filed income tax returns disclosing a handsome amount of income. The petitioner is also getting income from agricultural land. She is staying in her own house. A husband is duty bound to maintain his wife, however, a husband cannot be called upon to pay maintenance where wife is competent to maintain herself because of her sources whereas husband is having no source of income.

In view of above noted facts and findings recorded by the Revisionary Court, there is no reason to interfere in the impugned judgment. Thus, petition is liable to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.01.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>