

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-1883-2023 (O&M)

Date of order: 24.08.2023

Rajesh Gupta

.....Petitioner(s)

Vs.

Pinki

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sushil Sheoran, Advocate
for the petitioner.

Nidhi Gupta, J.

Prayer in the present petition is for setting aside order dated 04.07.2023 passed by learned Additional Sessions Judge, Hisar affirming the order dated 01.12.2022 passed by learned Sub-Divisional Judicial Magistrate, Hansi, whereby in an application filed by the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005, the learned trial Court had granted Rs.15,000/- as interim maintenance to the respondent.

2. Learned counsel for the petitioner submits that the petitioner was married to the respondent on 02.07.2002 and three children were born out of this wedlock. Two minor children are in care and custody of the petitioner-husband and one minor child is with the respondent-wife. Against the order of learned Sub-Divisional Judicial Magistrate, Hansi, both the parties had filed appeal before the learned Additional Sessions Judge, Hisar, which have been dismissed on 04.07.2023. It is submitted that the impugned orders are unsustainable as the Id. Courts below lost sight of the

fact that the respondent is running her shop in her parental home in Hansi, whereas the petitioner is having income of only Rs.20,000/- per month which is borne out from his Income Tax Returns for the year 2019-20 till date. However, both the Courts below have ignored this important piece of evidence. Learned counsel further states that in such a situation, the liability imposed upon the petitioner is excessive especially in view of the fact that the petitioner also has to look after his two minor children.

3. I have heard learned counsel for the petitioner.

4. Perusal of order dated 01.12.2022 passed by learned Sub-Divisional Judicial Magistrate, Hansi reveals the following undisputed facts that :-

a) the respondent along with her one school-going son is residing at her parental house;

b) the petitioner was unable to place any material on record to suggest that the respondent had any source of income to maintain herself or their son; whereas although the petitioner had mentioned his monthly income as only Rs.20,000/- per month, however, it has been found by the learned Courts below that the petitioner has suppressed his actual income;

c) in the column of self-acquired property, the petitioner has stated himself to be owner of 33 kanal, 5 marla land situated at village Chang, District Bhiwani; one flat at Gurugram; land measuring 1560 square yards situated at village Devsar, District Bhiwani; one plot measuring 280 square yards situated at Loharu Road, Bhiwani; one shop; one house at Sector 13, Bhiwani; one car and motorcycle.

5. Admittedly, the abovesaid findings have been found to be true by the learned Additional Sessions Judge, Hisar also in the impugned order dated 04.07.2023.
6. On a direct Court query to the learned counsel for the petitioner regarding the correctness of the above said facts, learned counsel admits the same to be true and correct. It is however stated that the petitioner has no income from the said properties.
7. Accordingly, from the above said undisputed facts, it emerges that the petitioner is admittedly in a financially sound position. On the other hand, the petitioner has been unable to show that the respondent has any source of income save the maintenance as granted by the learned Courts below.
8. In view of the above facts, I find no ground is made out to disturb the concurrent findings of the learned Courts below. Present petition accordingly stands **dismissed**.
9. Pending application(s) if any also stand(s) disposed of.

24.08.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No