

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-216-2024(O&M)

Date of order: 08.04.2024

Nitin Vohra

.....Petitioner(s)

Vs.

Pritima @ Hunny & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Nidhi Gupta, J.CRM-6689-2024

This is an application under Section 482 Cr.P.C. for placing on record Annexure P1 to P16.

After going through the contents of the application, which is supported by affidavit of the petitioner, the same is allowed subject to all just exceptions and Annexure P1 to P16 are taken on record.

CRM-15122-2024

This is an application under Section 482 Cr.P.C. for placing on record affidavit of assets and liabilities of the petitioner in terms of order dated 13.02.2024 passed by this Court and bank statement as Annexure P18, P19 and discharge summary (Annexure P20).

After going through the contents of the application, which is supported by affidavit of the petitioner, the same is allowed subject to all just exceptions and Annexure P18 to P20 are taken on record.

MAIN CASE

Prayer in the present petition is for setting aside order dated 16.01.2024 passed by learned Additional Principal Judge, Family Court, Panipat, whereby the petitioner/husband has been directed to pay final maintenance of Rs.1 lakh per month to respondent No.1/wife and Rs.50,000/- per month to respondent No.2/son.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to respondent No.1 on 28.07.2013. One son/respondent No.2 herein was born out of this wedlock on 17.08.2014. It is submitted that due to matrimonial differences, the parties started living separately since 16.04.2014. Thereafter, on 06.05.2016 the respondents had filed the petition under Section 125 Cr.P.C., in which vide order dated 07.04.2017 (Annexure P8), the petitioner was directed to pay interim maintenance of Rs.50,000/- per month to the respondents. It is submitted that vide the impugned order, excessive and exorbitant maintenance has been granted by the learned Family Court. It is submitted that in passing the impugned order, the learned Family Court has failed to appreciate that along with his written statement the petitioner had placed on record his relevant Income Tax Returns for the financial years 2014-15, 2015-16, 2016- 17, as per which it was clear that the petitioner was suffering huge losses in his business. The average income of 2014-15, 2015-16 and 2016-17 comes to about three lacs per annum. Thereafter, in the Income Tax Return of 2018-19 total gross income is of Rs. 3,63,984/-; ITR 2019-20 total

gross income is Rs.3,50,072/-; ITR 2020-21 Rs. 2,05,250/-; and ITR for the year 2023-24 total income is shown as NIL (Annexure P-3 colly.) has been relied upon to show that the petitioner has no income.

3. Learned counsel contends that in view of the above said unequivocal evidence on record, learned Family Court was in patent error in granting such exorbitant maintenance to the respondents.

4. It is further submitted that the learned Family Court also failed to appreciate that the respondents had filed a petition under Section 12 of the DV Act, which was dismissed by the learned JMJC, Panipat vide order dated 23.11.2022 (Annexure P12). In Para 11 of the said order, it has been mentioned as under:-

“11. The court is of the view that there is no cogent evidence on record to prove that complainant was ever harassed or tortured by respondent on account of demand of dowry. There is no evidence such as MLR etc. to prove that respondent ever tortured her physically. So, this court is of the view that there is no evidence to suggest on record that complainant faced any domestic violence at the hands of respondent. It appears that the present case is of temperamental differences between petitioner and respondent no.1, However, it is an admitted fact that out of legal wedlock of complainant and respondent No.1 Nitin, one son namely Daksh is born. This court is of the view that complainant has failed in proving that she was subject to any kind of violence at the hands of respondents. As far as minor son is concerned, it is observed that in cross-examination Pritima PW1 admitted that her bank statement is Ex. D1 which is put to her in cross-examination by respondent counsel. From perusal of Ex. D1 Bank statement it is observed that from 02.01.2019 to 16.01.2019 there are 8 entries of cash deposit

reflecting amount of Rs.49,000/- on four occasions, Rs.49,500/- on three occasions and Rs.48,500/- one occasion. The total of the same is around Rs.3,92,000/-. It reflects that petitioner is having good source of income and she has reasonable amount of money to take care of herself as well as her son Daksh.”

5. It is submitted that from the above findings, it is clear that the respondent is self-sufficient and has reasonable amount of money to take care of herself as well as their minor child. It is contended that while passing the impugned order, learned Family Court has also lost sight of the fact that respondent No.1 is also well qualified inasmuch as she has done her BA/MA and is running a beauty parlour and training centre. It is argued that in this view of the matter, the respondents were not entitled to maintenance.

6. No other argument is made on behalf of the petitioner.

7. I have heard learned counsel for the petitioner and perused the case file in detail.

8. Though, learned counsel for the petitioner has tried to impress upon this Court that currently the petitioner has no source of income, however, on the face of it, the said assertion does not inspire confidence of this Court. Relevant findings given by learned Family Court in impugned order dated 16.01.2024 are as under:-

“46. The petitioners have examined two witnesses to show that the respondent is having a lavish life style. Testimony of Krishan Kumar PW3 and Om Parkash PW4 proves that the respondent was maintaining a Mitsubishi Pazero (Sport), which he transferred to one Nirmal Singh during the pendency of the case. A Camary Car is also owned by him. The respondent is living with his father in his family home. He enjoys a good

*financial status. The petitioner no 1 has no source of income. She has no movable or immovable property. She is living with her brother along with her child. She has the responsibility of a minor child, who is studying in school. The petitioner no. 1 is spending a considerable amount on the education of the child. Besides that there are other expenses of the child like food, shelter, clothing, medicines etc. The respondent is young and is an able-bodied person. He is running M/s Sunor Medi International and his father is proprietor of Sunshine Orthopedics. It becomes clear from the evidence that Sunshine Orthopedics is also looked after by the respondent being the only son of his father. In **Rajnish Vs. Neha (supra)**, the Hon'ble Apex Court held that the wife had a right of living standard, which she was enjoying while living with the husband. There is no cogent and convincing evidence regarding exact income of the respondent. On the basis of evidence on record, it is assessed that the respondent must be earning at least Rs.5-6 lacs per month. Hence, maintenance of Rs. 1 lac per month to the petitioner no. 1 and Rs. 50,000/- per month to petitioner no. 2 is granted from the date of filing of the petition. It is made clear that if the petitioner is getting maintenance under any other legislation, the same is liable to be set off. The petition is accordingly allowed. Memo of cost be prepared. File be consigned to the record room after due compliance."*

9. The petitioner has been at great pains to show the Court that the luxury cars mentioned in the impugned order were transferred by the petitioner to one Nirmal Singh *before* filing of the present case. However, the petitioner has not been able to show any evidence in this regard.

10. Vide order dated 13.02.2024, this Court had directed the petitioner to file "*an affidavit of the petitioner detailing therein all the moveable and immovable assets/properties owned by him, his parents, his avocation and his income from all sources*". In compliance thereof, the petitioner has filed his affidavit dated 02.04.2024. In the said affidavit the petitioner has stated that he has been disowned by his father; further he

has admitted that he is qualified MBA; in column (F), the petitioner has admitted that he is proprietor of M/s Sunor Medi International; that he is also working as part time commission agent for a real estate-cum-finance company. In column (F)(9), the petitioner has misleadingly mentioned that he has furnished copies of bank statements for the last 3 years of his account in Axis Bank, Sonipat bearing No.923010049676638 (however, the same has not been appended with this affidavit); and current account No.3712868753 in name of M/s Sunor Medi International (of which petitioner is the proprietor), in Kotak Mahindra Bank.

11. Perusal of Annexure P18, which is the statement of current account in the name of M/s Sunor Medi International (of which petitioner is the proprietor), in Kotak Mahindra Bank shows that credit and debit entries of huge sums of money have been made therein from time to time. For instance, there is a credit entry of Rs.6,93,847.13/- on 30.07.2021; Rs.6,82,890.50/- on 07.09.2021; Rs.7,03,104.75/- on 18.10.2021; Rs.7,00,683.52/- on 27.10.2021; and Rs.3,59,195.10/- on 26.11.2021. In the more recent past, there is credit entry of Rs.4,08,979.37/- on 05.10.2023; and Rs.3,28,672.00/- on 10.11.2023. Counsel for the petitioner has no explanation for the same.

12. Moreover, it is intriguing that although it is the case of the petitioner that he has been disinherited by his father, however, evidence on record is to the contrary. A perusal of Annexure P-18/viz the statement of current account in name of M/s Sunor Medi International (of which petitioner is the proprietor), in Kotak Mahindra Bank reveals that father of the petitioner is the nominee of the said account. The petitioner

has also not denied that he is running M/s Sunor Medi International and/or that his father is proprietor of Sunshine Orthopedics, which is also looked after by the petitioner. The said finding of the learned court below is further fortified by the fact that as per the recent medical history of the father of the petitioner for the period 19.03.2024 to 21.03.2024 (Annexure P20) of Fortis Hospital, Shalimar Bagh, New Delhi, father of the petitioner has suffered heart attack and stent has been implanted. The petitioner being the only son will naturally look after the business interests of his aged and ailing father. Thus, except for the bald averment of the petitioner in the affidavit that he has been disowned, there is no evidence on record in form of any newspaper announcement/publication by father of the petitioner making such a declaration. It therefore appears that the petitioner has taken the false plea of being disowned by his father only to misrepresent his financial status and to avoid paying maintenance to the respondents. For all intents and purposes, the petitioner and his father are running the above said companies together as noted in the impugned order. Petitioner has not come clean before this Court. The bona fide of the petitioner is dubious, also in view of the fact that he has failed to produce his Axis Bank account statement.

13. In view of the above, I find no merit in the present petition and the same is accordingly, **dismissed**.

14. Pending application(s) if any also stand(s) disposed of.

08.04.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

9Yes/No