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

CRR(F)-1280-2023 (O&M)

Reserved on: 23.07.2024

Pronounced on: 24.07.2024

Surinder Singh

....Petitioner

Versus

Chander Lekha and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Akshit Dhiman, Advocate
for the petitioner.Mr. Vikas Gupta, Advocate
for the respondents.**HARPREET SINGH BRAR, J.**

1. The present revision petition has been preferred against order dated 20.04.2023 passed by learned Principal Judge, Family Court, Tarn Taran, whereby respondent No.1 was directed to refund the amount paid by the petitioner as interim maintenance along with a compensation of Rs. 20,000/-.

2. Briefly, the facts are that the marriage between the petitioner and respondent No.1 was solemnized on 06.02.1977 and a daughter was born out of the said wedlock. They were granted a divorce on mutual consent on 04.08.1985. Subsequently, respondent No.1 and respondent No.2(daughter) filed a petition for maintenance claiming that they have no independent source of income. Consequently, the learned Judicial Magistrate Ist Class, Tarn Taran granted Rs. 7,000/- as interim maintenance to respondent No.1 vide order dated 19.01.2018. Aggrieved by the same, the petitioner preferred a revision, which was allowed vide order dated 17.07.2019 passed by the learned Sessions Judge,

Tarn Taran. Thereafter, the petitioner filed an application seeking refund of Rs.



80,000/- as well as Rs. 5,00,000/- as compensation for harassment. The same was disposed of vide impugned order dated 20.04.2023 wherein the petitioner was awarded compensation of Rs. 20,000/-

3. Learned counsel for the petitioner *inter alia* contends that respondent No.1 is retired from Civil Hospital, Karion i.e. the Health Department and receives Rs. 25,000/- per month as pension, as well as other benefits. Moreover, respondent No.1 also owns moveable and immoveable properties. However, in her affidavit dated 16.05.2016 qua income, assets and liabilities, she has indicated that she has no independent source of income or any property. Further still, respondent No.1 has categorically admitted in her cross-examination that she receives Rs. 17,000/- per month as pension along with other retiral benefits like gratuity, leave encashment, GPF etc. The petitioner also filed an application under Section 340 Cr.P.C. wherein it was accepted that respondent No.1 concealed the said information, however, proceedings were not initiated, as reflected vide order dated 27.04.2023 (Annexure P-14). The petitioner is a 75 years old man, residing in an old age home. The litigation initiated by respondent No.1 is riddled with *mala fide* and has caused undue mental and physical harassment to the petitioner, which cannot be compensated with a meager amount of Rs. 20,000/-.

4. Per contra, learned counsel for the respondents supports the impugned order passed by the Court below.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it is evident that the order dated 19.01.2018(Annexure P-5) passed by learned Judicial Magistrate Ist Class, Tarn Taran granting interim maintenance to respondent No.1 has already been set aside vide order dated 17.07.2019 (Annexure P-10) passed by the learned



Sessions Judge, Tarn Taran.

6. Respondent No.1 is a 75 years old lady and has already returned the sum of Rs. 49,000/-, received as interim maintenance, along with a compensation of Rs. 20,000/-. While it is admitted that respondent No.1 concealed material facts during proceedings under Section 125 Cr.P.C., this Court does not find any reason to take punitive action against her in view of the fact that she has returned the amount received and paid the compensation, as well as her advanced age.

7. The overarching aim of justice is to serve what is deserved and accountability and fairness are identifying features of the same. However, the said purpose would be defeated if justice is viewed in its absolute mechanical form, devoid of context and nuance. While justice in itself is a dynamic concept, directly influenced by the morality of an ever-evolving society, it can be said with certainty that absolute impartiality and lack of compassion often claims fairness as a casualty. This Court is of the considered opinion that it is only through compassion that justice can be substantially realised.

8. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.07.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No