
(2010) 11 P&H CK 0052
In the Punjab And Haryana At Chandigarh
Case No : CRR No. 2984 of 2010

Hitesh Jain

APPELLANT

Vs

Smt. Jyoti Jain and Master Akshat Jain

RESPONDENT

Date of Decision : 09-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2010) 11 P&H CK 0052

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Judgement

Mehinder Singh Sullar, J.—The matrix of the facts, which needs a necessary mention for deciding the core controversy raised in the instant petition and emanating from the record, is that the marriage of Hitesh Jain Petitioner-husband was solemnized with Smt. Jyoti Jain Respondent-wife. Master Akshat Jain-Respondent No. 2 was born out of their wedlock. The Respondent-wife claimed that the Petitioner-husband harassed, treated her with cruelty on account of and in connection with the demand of dowry and was ultimately turned out of her matrimonial home alongwith her minor son. They have no source of income to meet their ends as Petitioner-husband has deserted them in this respect. On the other end, the Petitioner-husband is a practicing Advocate in Delhi High Court, is also having rental income and his total monthly income is about Rs. 3 lacs. On the basis of aforesaid allegations, the Respondent-wife and minor son of the parties filed a petition (Annexure P1) claiming maintenance allowance invoking the provisions of Section 125 Cr.PC. They have also sought interim maintenance allowance to the tune of Rs. 50,000/-per month alongwith litigation expenses of Rs. 11000/- in this context.

2. The Petitioner-husband contested the application for interim maintenance and filed the reply (Annexure P2), inter-alia, denying all the allegations contained in the application and prayed for its dismissal.

3. The Judge, Family Court, after taking into consideration the material on

record, declined the claim of the Respondent-wife on the ground that she has sufficient income of her own to maintain herself. However, the trial Judge assessed the monthly income of the Petitioner -husband as Rs. 25,000/-and directed him to pay the interim maintenance of Rs. 7500/-per month to his minor son Respondent No. 2, by virtue of impugned order 27.9.2010.

4. The Petitioner-husband still did not feel satisfied with the impugned order of the Judge, Family Court and filed the present petition. That is how I am seized of the matter.

5. Having heard the learned Counsel for the Petitioner, having gone through the record with his valuable help and after bestowal of thoughts over the entire matter, to my mind, there is no merit in the instant petition.

6. As is evident from the record that Respondent No. 2 is minor son of the parties. The Petitioner-husband is socially, morally and legally bound to maintain his minor son. The main contention of the learned Counsel that keeping in view the income of the Petitioner-husband, the amount assessed by the trial Judge is on the higher side, is not only devoid of merit but misplaced as well.

7. What is not disputed here is that the trial Judge in this respect has observed as under (paras 13 and 14):

As far as the income of the Respondent is concerned, the applicant has placed on record the salary slip of the Respondent for the month of January, 2009 wherein the Respondent is shown to be an employee of Fortis Health World Ltd. In this salary-slip his salary is shown to be Rs. 18,260/-per month. It is also an admitted fact that presently the applicant No. 1 is a registered lawyer and if the contents of salary slip for the moth of January 2009 is an indicator, in view of the background of the family of the Respondent vis-a-vis his educational qualification, his income should not be and cannot be treated as less than Rs. 25000/- per month.

In this regard, the salary slip issued by a company known as Gryphon Appliances Ltd. has been placed on record wherein the salary of the Respondent as Warehouse Assistant is shown to be Rs. 6000/-per month. During the course of arguments, it was revealed that the said company belongs to the real brother-in-law of the Respondent and, therefore, in my opinion, no reliance should be placed upon the above mentioned salary slip, particularly when the Respondent, who is proved to be a qualified lawyer, was earlier earning more than Rs. 18000/- per month.

8. Meaning thereby, the Judge, Family Court has recorded the valid reasons in awarding the interim maintenance to the minor son of the Petitioner. Such articulated order containing the valid reasons cannot possibly be set aside while exercising the limited revisional jurisdiction of this Court, unless the same is perverse and without jurisdiction. No such patent illegality or legal infirmity has been pointed out in the impugned order by the learned Counsel for the Petitioner

in this respect.

9. No other legal point, worth consideration, has either been urged or pressed by the learned Counsel for the Petitioner.

10. In the light of the aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of the trial of the main petition (Annexure P1), the instant petition is hereby dismissed, in the obtaining circumstances of the case.

11. Needless to state that nothing observed, here-in-above, would reflect, in any manner, on merits of the main case, because the same has been so recorded for a limited purpose of deciding the present petition.