
(2013) 11 P&H CK 0226
In the Punjab And Haryana At Chandigarh
Case No : C.R.R. No. 3905 of 2012

Prabhpreet Kaur and Another

APPELLANT

Vs

Atamjeet Singh

RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Citation : (2014) 2 Crimes 207

Hon'ble Judges : R.P. Nagrath, J

Bench : Single Bench

Advocate : Sanjay Jain, for the Appellant; G.K. Daulat, for the Respondent

Final Decision : Dismissed

Judgement

R.P. Nagrath, J.—The prayer in this petition is for modification of order passed by the District Judge, Family Court, Ambala for payment of interim maintenance to be effective from the date of filing of application for interim maintenance and not from the date of order. The petition u/s 125 Cr.P.C. was instituted on 06.4.2011 before the Family Court and application for interim maintenance was disposed of on 19.09.2012. Petitioner No. 1 is the wife of respondent and petitioner No. 2 is the minor child born out of the wedlock. The lower Court fixed Rs. 10,000/- per month as interim maintenance to petitioner No. 1 and Rs. 5,000/- per month to petitioner No. 2, the minor child. The other ground taken in the revision was that the amount of interim maintenance awarded is quite on the lower side because the respondent was earning Rs. 94,714/- per month as salary whereas petitioner No. 1 is the household lady looking after the minor child.

2. However, learned counsel for the petitioner has confined his argument only to the extent that the interim maintenance may be made effective from the date of filing of the application instead of the date of order. In her application for maintenance, the petitioner stated that the respondent was getting Rs. 1.5 lac per month as salary whereas the respondent pleaded that he was drawing only Rs. 40,000/- per month.

3. Learned counsel for the respondent during arguments submitted that because of the stress of marital dispute the employer has terminated the services of respondent w.e.f. 30.09.2012. For that matter respondent is at liberty to apply to the lower Court for seeking alteration of the amount of maintenance on that basis. The respondent, however, has not challenged by way of revision the quantum of maintenance fixed by the lower Court.

4. I am of the clear view so far as the interim maintenance is concerned that has to be normally granted from the date of filing of application for interim maintenance. Such an order can even be passed ex parte at the time of issuance of notice to the respondent. If the matter is delayed because of securing presence of the respondent or filing of the reply or any factor not arising due to fault attributed to the wife, the grant of interim maintenance should have been w.e.f. the date of filing of the said application as it is basically meant for bare subsistence of the wife and the child. The lower Court has not assigned any reason why the interim maintenance has not been made effective from the date of filing of the application and only from the date of passing of the order. Such a condition to make the order of grant of interim maintenance effective from the date of passing of the order cannot be sustained. In view of the above, the instant revision is allowed and the impugned order passed by the Family Court with regard to the grant of interim maintenance is modified to be effective from the date of filing of the application making prayer for interim maintenance before the lower Court.