
(1984) 05 P&H CK 0070
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 987 of 1983

Virpal Kaur and Murti through their mother Surjit Kaur and anr. APPELLANT

Vs

Bhura Singh RESPONDENT

Date of Decision : 09-05-1984

Acts Referred:

Citation : (1984) 05 P&H CK 0070

Hon'ble Judges : B.S.Yadav, J

Advocate : H.S. Gill, Advocates for appearing Parties

Judgement

B.S. Yadav, J.

1. The facts leading to this revision petition are that Surjit Kaur (petitioner No 3) was married to Bhura Singh, respondent in 1971. From that marriage two daughters, namely, Virpal Kaur and Murti (petitioner Nos. 1 and 2 respectively) were born. The respondent is said to have maltreated his wife and turned her out of his house alongwith the two daughters. In August, 1980 Surjit Kaur filed an application under section 125 of the Criminal Procedure Code on her own behalf and on behalf of her minor daughters claiming maintenance from the respondent. At that time Virpal Kaur was aged 7 1/2 years and Murti 11/2 years. It was alleged in the petition that Surjit Kaur was unable to maintain herself and the minor daughters and that the respondent was earning about Rs. 1500/P.M., Surjit Kaur claimed Rs. 300/P.M. as maintenance for herself and Rs. 150/P.M. each for the minor daughters.

2. The learned Judicial Magistrate Ist Class, Faridkot, who heard that case held that the husband had not neglected to keep and maintain his wife Surjit Kaur and her refusal to live with him was not justified. He further held that the minors was living with their mother and the respondent was bound to maintain them. He fixed the earnings of the respondent at not less than Rs. 700/ or Rs. 800/ P. M. as he was a truckdriver. Accordingly he ordered him to pay Rs. 100/ P.M. each to Virpal Kaur and Murti as maintenance from the date of the application.

3. Feeling aggrieved against that order both the parties filed revision petitions. In his revision petition Bhura Singh alleged that he was prepared to keep and maintain his wife and daughters and moreover the amount of maintenance allowed to Virpal Kaur and Murti was excessive. Surjit Kaur, Virpal Kaur and Murti in their revision petition claimed maintenance for Surjit Kaur as well as for enhancement of maintenance granted to Virpal Kaur and Murti. Those revision petitions were heard by learned Additional Sessions Judge, Faridkot. He dismissed the petition filed by Surjit Kaur and her daughters. He partly accepted the revision petition filed by Bhura Singh respondent and reduced the maintenance granted to Virpal Kaur and Murti to Rs. 80/ and Rs. 40/ P.M. respectively.

4. Feeling aggrieved against the above order Surjit Kaur, Virpal Kaur and Murti have filed this revision petition. It may be mentioned here that before me the revision petition so far as Surjit Kaur is concerned was not pressed perhaps on the ground that second revision on her behalf was not maintainable as maintenance was refused to her by both the learned Courts below. The only grievance before me was that the learned Additional Sessions Judge was not justified in reducing the maintenance allow by the learned trial Court to Virpal Kaur and Murti.

5. The learned counsel for the" petitioners vehemently argued that while exercising revisional powers, the learned Additional Sessions Judge was not competent to reappraise the evidence and, therefore, he could not reduce the amount of maintenance granted to Virpal Kaur and Murti by the learned trial Court. I am of the opinion that in the present case the order of the trial Court granting Rs. 100/P. M. each by Virpal Kaur and Murti is practically based on no evidence. He has, of course, assessed the income of the respondent but did not take consideration the requirements of Virpal Kaur add Murti for clothing, food lodging and education, if any Virpal Kaur was aged only 71/2 years on the date of the filing of the application while Murti was aged 11/2 years. Surprisingly enough, the maintenance fixed for both of them was the same. The learned Additional Sessions Judge has considered the economic status of the family and then fixed the maintenance for Virpal Kaur and Murti accordingly.

6. The learned counsel for the petitioners next argued that the amount of maintenance fixed by the learned Additional Sessions Judge is very meagre. I do not agree with that contention. As noticed earlier, the application for maintenance was filed in August, 1980. The costs of living at that time has to be considered. The learned counsel for the petitioner was not able to show that a child aged 71/2 years and the other 11/2 years could not be maintained with the amount of maintenance granted to them Higher amount of maintenance appears to have been fixed for Virpal Kaur taking into consideration that she might also require some money for education. Thus I do not find any fault with the order or the learned Additional Sessions Judge.

7. The learned counsel for petitioner argued that the costs of living has arisen

since, 1980. If the amount fixed by learned Additional Sessions Judge is not sufficient for the maintenance of Virpal Kaur and Murti, they can always approach the trial Court for enhancement of the maintenance in view of the change in circumstances. In this respect reference can be made to section 127, Criminal Procedure Code.

8. For the foregoing reasons I do not find any merit in the present revision petition and dismiss the same.