

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No. M-10226 of 2013

Date of decision: August 12, 2016

Samarjit Kalita

..... Petitioner

Versus

Monika Gupta and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jitender Malik, Advocate
for the petitioner

Mr. J.S. Virk, Advocate
for the respondents

ANITA CHAUDHRY, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. by the husband assailing the order dated 02.03.2013 passed by the Sessions Judge and the order dated 20.07.2012 passed by the Judicial Magistrate First Class Karnal vide which he had been directed to pay Rs. 5000/- per month to each of the respondents as interim maintenance from the date of filing of the petition.

Monika Gupta was married to Samarjit Kalita on 27.04.2008 and they have a son namely Danish who was born on 20.01.2011. Monika filed a petition in 2011 seeking maintenance under section 125 Cr.P.C. She had pleaded that the marriage was solemnized with great pomp and show and sufficient dowry was entrusted and after staying for three days in Delhi they shifted to Kukurmara, her matrimonial home for 12 days and demand of dowry was made. Differences arose when the wife conceived. The husband was forcing abortion. A Panchayat was convened. The wife levelled allegations that she was beaten up and was locked in a room. The petitioner started staying with her mother from April 2011. The petitioner claims that she was earning Rs. 75,000/- per month and lost her job and

she was totally dependent upon her own mother and could not maintain herself or her child. It was pleaded that the husband was working as a Senior Architect in Delhi and was having projects of multinational companies and his income was not less than Rs. 75,000/- per month. The claim of Rs. 10,000/- for each of the petitioner as maintenance was made.

In the reply submitted by the husband the allegations were refuted. It was pleaded that both of them had studied together in a college in Chandigarh and after long relationship they had got married and the wife got a job in Delhi in 2004 and it was the wife who got the job for the husband. It was pleaded that his father-in-law suffered paralytic attack and lost his job and his wife was attached to her family and they both used to visit Karnal and gave financial help and later her father died in 2007 and his wife was also diagnosed with cancer and in this backdrop the marriage was solemnized in April 2008 at Karnal and it was a simple marriage. It was pleaded that wife got the FIR lodged and he has to run pillar to post to get bail. It was pleaded that wife was earning and she was not entitled to any maintenance.

The trial Court vide order dated 20.07.2012 ordered interim maintenance of Rs. 5000/- per month to each of the petitioners from the date of filing of the petition i.e. 17.09.2011. Para 6 of the order reads as under:-

“6. The parties willingly tied the matrimonial knot and a male child Danish now about one and a half years of age was born within the wedlock. Both were qualified enough to make good living but their matrimonial ties withered away with time and the parties entered the legal arena. It is alleged by the petitioner No. 1 that she was unable to maintain herself and her child because presently she was a nursing mother and even if she got some part-time job, she needed help for the child. On the other hand, the respondent submitted that the he could

pay towards maintenance of the child but blatantly refused to maintain his wife. As such, keeping in view the peculiar facts and circumstances of the case, the respondent is hereby directed to pay an interim maintenance allowance of Rs. 5000/- per month each to the petitioners No. 1 and 2 from the date of the petition i.e. 17.09.2011. Accordingly, the present application stands disposed of.”

Aggrieved by the order a revision was preferred by the husband and the same was dismissed. Still not satisfied this petition has been filed.

On 29.07.2013, the counsel representing the petitioner had stated that the petitioner had no objection and would pay maintenance allowed to son. It was urged that respondent No. 1 was highly qualified and had bank accounts and deposits. The parties were asked to sit together and resolve their disputes. The wife could not appear on some hearings and the matter was adjourned number of times. The matter could not be resolved.

I have heard both the sides.

Learned counsel for the petitioner contends that the wife was an Architect and she was working before marriage and there is no reason why she would stop working after marriage and she has not disclosed her income. It was urged that the wife had purchased Alto car in 2011 and the bank statement is available on record to show the number of deposits made from time to time. The counsel had also referred to the photographs to show that all was well and they had been visiting different places together on holidays before they parted.

On the other hand the submission was that the wife was out of job when the child was born and during the nursing period it was difficult for her to work with a small child. On a query with respect to the purchase of the car the counsel could not say whether any car had been purchased.

Perusal of the record shows that the car was purchased in 2012 by Monika. It appears that the wife is not correctly showing her income. The wife is highly educated. She was working as an Architect in Delhi. No record was produced to show that she had lost her job, therefore, the order passed by the Courts below regarding the maintenance granted to the wife is set aside.

The petition is partly allowed. The petitioner would continue to pay interim maintenance allowed to the child. The parties will have to lead evidence in support of their respective claims. The trial Court would examine the evidence with respect to the income and decide strictly on merits without being influenced of any observations made herein.

August 12, 2016

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**(ANITA CHAUDHRY)
JUDGE**

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No

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