

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.628 of 2014

Date of decision: February 24, 2014

Mrs.Alka Jain

...Petitioner

Versus

Mr.Shailender Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Naresh Kumar Bansal, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner Alka Jain has filed this revision petition against Shailender Jain under Section 401 Cr.P.C. challenging the order dated 13.12.2013 passed by learned Addl. Sessions Judge, Panchkula, vide which the interim maintenance @ ₹5,000/- per month granted to the wife by the learned Judicial Magistrate Ist Class, Panchkula was set aside, whereas, maintenance @ ₹2,000/- per month granted to the minor son was upheld. Feeling aggrieved against said order of setting aside of maintenance, the present revision has been filed by the petitioner.

At the time of arguments, learned counsel for the petitioner contended that the petitioner is entitled to and should be granted interim maintenance from the respondent because the petitioner is not residing in the matrimonial house owned by the respondent.

I have perused the impugned order. In the revision petition, the petitioner is to show as to what illegality has been committed by the learned Courts below. Learned Addl. Sessions Judge, Panchkula has held as under:-

“xxx....The learned trial court in para no.8 of the impugned order has observed that no evidence has been led by the respondent-complainant no.1 to prove the source of income and she has merely stated that he earns well. On the other hand, it is pertinent to mention here that respondent-complainant no.1 in her petition filed before the learned trial court, in para no.2(c) has stated that she is employed as a teacher in Bhavan Vidyalaya, Sector 15, Panchkula, and is getting salary of ₹23,000/- per month.

In view of above discussion it is made out that the respondent-complainant no.1 is gainfully employed, whereas the appellant has no source of income and as such, the respondent-complainant no.1 is not entitled to any interim maintenance amount from the appellant”

From the above findings of the trial Court as well as of learned Addl. Sessions Judge, Panchkula, there is no prima facie evidence produced by the present petitioner to prove the source of income of the present respondent. She has simply stated that the respondent earns well. On the other hand, it is admitted that present revision petitioner is employed as a teacher and getting salary of ₹23,000/- per month.

Keeping in view these facts, the interim maintenance granted to the petitioner @ ₹5,000/- per month by learned Judicial Magistrate Ist Class, Panchkula was set aside. The order passed by the learned Addl. Sessions Judge, Panchkula, is correct, as per law and no illegality has been committed while passing the order.

Otherwise also, this application is only for interim maintenance. The parties are to prove their case and to lead evidence etc. before the Court and the matter is to be decided on merits by the Court and the present petitioner can produce evidence before the Court regarding income of the respondent etc. which can be taken note of by the trial Court while deciding the case on merits.

Therefore, from the above, I find no illegality in the order dated 13.12.2013 passed by learned Addl. Sessions Judge, Panchkula and the same is upheld. Accordingly, the present revision petition stands dismissed. However, nothing stated above, will constitute my opinion on merits of the case.

February 24, 2014
Vgulati

(INDERJIT SINGH)
JUDGE