

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE,
NAKODAR, PRESIDED OVER BY
RAJESH AHLUWALIA, PCS,(UID NO.PB0281)

CIS CASE NO.	MNT125/33/2018
CNR NO.	PBJLA1-001914-2018
DATE OF INSTT.	08.06.2018
DATE OF DECISION	21.11.2018

1. Sukhwinder Kaur aged about 35 years wife of Karnail Singh, daughter of Gurcharan Singh
2. Rajwinder Kaur minor aged about 15years daughter of Karnail Singh
3. Manjodh Singh minor aged about 12 years son of Karnail Singh
4. Harmanpreet Kaur minor aged about 11 years daughter of Karnail Singh.

All residents of Village Dalla, Tehsil Bhullath, Distt. Kapurthala, now residing at Mohalla New Guru Nanakpura, Nakodar.

Applicants Nos. 2 to 4 being minors through their mother applicant No.1 being next friend and guardian at litum.

...Applicants

Vs.

Karnail Singh son of Jagir Singh, resident of Village Dalla, Tehsil Bhullath, Distt. Kapurthala.

...Respondent

APPLICATION UNDER SECTION 125 Cr.P.C. FOR GRANT OF MAINTENANCE TO THE TUNE OF RS.20,000/- PER MONTH i.e. RS.5000/- PER MONTH FOR EACH OF APPLICANTS.

Present: Shri S.S.Sandhu, Advocate Counsel for applicants
Respondent exparte.

ORDER

Present application under section 125 Cr.P.C. was filed by applicant Sukhwinder Kaur for herself and for her minor daughters Rajwinder Kaur, Harmanpreet Kaur and minor son Manjodh Singh, claiming that she was married with the respondent on 06.07.2000 at Nakodar. After

the marriage she alongwith respondent lived and cohabited with each other as husband and wife. Applicants No.2 to 4 were born out of their wedlock and are presently living with applicant No.1. Her marriage with the respondent was solemnized with great pomp and show. Her parents spent huge amount at the time of marriage and gave sufficient handsome dowry even beyond their reach. But neither her in-laws family members nor respondent were satisfied from the quantity and quality of the dowry given in the marriage. The behaviour of respondent towards the applicant No.1 was very cruel and he is man of bad vices. He takes intoxicants, poppy husk and other types of drugs. The applicant no.1 gave birth to applicants No.2 to 4 and every times all the expenses of hospital and other delivery charges etc. were met by the parents of the applicant No.1. The respondent used to beat applicant No.1 even in the house of her parents. The respondent gave an affidavit on 08.02.2012 and undertakes not to misbehave with the applicant no.1 and also took the responsibility to provide maintenance to the tune of Rs.5000/- per month. In the year 2014 the applicants were turned out by the respondent from the matrimonial house at Village Dalla and the applicant No.1 alongwith other applicants came to her parental house at Nakodar and since then they are residing at Nakodar. In the month of March 2014, the respondent came to the parental house of the applicant No.1 and gave severe beatings to her. She approached the police of PS Nakodar and respondent was challaned under Section 107/151. The applicants have no movable or immovable property in their names and have no source of income. The respondent has neglected them without sufficient cause or reason and

refused to maintain them, though the respondent is doing agriculture by taking land on lease and also running a dairy farm and earns Rs.50000/- per month from all sources and he can easily pay maintenance to the applicants to the tune of Rs.20,000/- per month to applicants. It was prayed that respondent be burden with maintenance.

2. Upon notice, respondent not appeared and was proceeded exparte vide order dated 10.08.2018.

3. In her evidence, applicant no.1 Sukhwinder Kaur herself stepped into the witness-box as AW1 and examined AW2 Gurcharan Singh (father of applicant No.1) who supported the case of the applicant. Thereafter, she closed her evidence.

4. I have heard and considered arguments of counsel for the applicant.

5. Applicant no.1 Sukhwinder Kaur has deposed on oath that she along with her minor son and daughters had been neglected by the respondent Karnail Singh without any reasonable cause and they are unable to maintain themselves. Her statement is thoroughly corroborated by her father in all respects with regard to the fact that she was turned out from her matrimonial home with her minor kids and is unable to maintain herself and her kids. The evidence on record of the applicant remained unrebutted and unchallenged on account of willful absence of the respondent Karnail Singh to contest the petition. This evidence itself entitles the applicants to claim maintenance from respondent being their husband and father. Provisions of Section 125 Cr.P.C. have been enshrined in the Code with a sole motive to

protect vagrancy among destitute wives and children. Evidence brought on record is sufficient to establish the right to claim maintenance by applicants against respondent.

6. As far as quantum of maintenance is concerned, there is nothing documentary established on record regarding concrete income of respondent, as alleged in the petition. Though applicants have claimed that respondent is earning more than Rs.50,000/- from all sources. It was incumbent upon applicant to prove the income of the respondent so as to establish her claim of maintenance to the tune of Rs.5000/- per month each as pleaded in her petition which she has miserably failed to establish as there is no evidence whatsoever to establish the income of respondent as alleged. applicant no.1 being his legally wedded wife and applicant no.2 to 4 being his son and daughters have every right to claim maintenance from him, even though there is no proof of his income.

7. On the evidence brought on record, respondent is burdened to pay Rs.1500/- (Rupees fifteen hundred only) per month to applicant no.1 and Rs.1,000/- each (Rupees One thousand only) to applicant no.2 to 4 through applicant no.1 as maintenance from the date of application. Accordingly, petition succeeds. File be consigned to the Record Room.

Note: Certified that all the four pages of this order are signed by me, which have been dictated and typed directly on computer.

PRONOUNCED
DT:21.11.2018
Swanjan Rehan*

(RAJESH AHLUWALIA) PCS
Sub-Divisional Judicial Magistrate,
Nakodar (UID No.PB0281)