

Kunal Bhardwaj vs. Mamta

**IN THE COURT OF SHRI KRISHAN KUMAR SINGLA,
ADDITIONAL SESSIONS JUDGE, SAS NAGAR (MOHALI).
Unique Identification Code No. (PB0197)**

CNR no. PBSA010037882019
CIS no. CRR 115-2019
Case no. RBT 5/30.04.2019/06.05.2022
Date of Order: 15.01.2024

Kunal Bhardwaj , son of Triloki Nath Bhardwaj r/o House no. 16, Gali no.8, Prem Nagar, Bhadso Road, Distt. Patiala.

..Revisionist.

Versus

Mamta wife of Kunal Bhardwaj, d/o Kartar Chand t/o House no. 584, Silver Enclave, Sector 125, Desu Majra, PS Sadar Kharar, Distt. SAS Nagar.

.... Respondent.

Revision petition against the order dated 16.02.2019 passed by the court of Ms. Aman Sharma, SDJM, Kharar vide which learned trial court had allowed the application for interim maintenance and had ordered the petitioner to pay Rs. 5000/- per month to respondent in the application under Section 125 Cr.P.C.

Claim in Revision

For setting aside impugned order dated 16.02.2019 and for rejecting the application for interim maintenance.

Present: Sh. J.S.Rangila Advocate, counsel for revisionists.
Sh. G.S.Prince Advocate, counsel for respondent.

JUDGMENT

1. This judgment of mine will dispose of the revision petition

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filed by revisionist against order dated 16.02.2019 passed by the court of Ms.Aman Sharma, SDJM, Kharar vide which learned trial court had allowed the application for interim maintenance and had ordered the petitioner to pay Rs. 5000/- per month to respondent in the application under Section 125 Cr.P.C.

2 Applicant/respondent earlier also filed petition under section [125](#) Cr.P.C, but same was withdrawn on [04.02.2016](#) as that time respondent was lodged in custody in FIR no, 41, dated [07.03.2015](#), under section [376](#), [342](#), [120-B](#) IPC. She averred that her marriage was solemnized with respondent on [07.05.2011](#). Marriage was performed with pomp and show and her parents spent a sum, of Rs.20,35,[300](#)/-on their marriage. She averred that at the time of marriage, she and respondent were doing job in the same company i.e. Future Life Insurance Company, at Sector 17, Chandigarh. Thereafter, they shifted to Amritsar and as respondent has joined Tata Insurance Company at Amritsar. Thereafter, respondent joined Max Company at Patiala and thereafter, they both started residing as husband and wife alongwith their parents. Applicant averred that one day she was given beatings and then respondent/revisionist and his mother showed her marriage photographs of respondent with one girl namely Nisha and she got to know that respondent never obtained divorce from Nisha and fraud has been committed upon her. When she confronted respondent, then she was given merciless beatings. Applicant averred that she tolerated all the cruelty with the hope that behaviour of respondent and his family towards her

will change. On 19.08.2014 respondent again gave merciless beatings to her and she was thrown out of her matrimonial house and since then, she is residing with her parents at Mohali. Applicant averred that she has also filed petition for divorce in which respondent did not appear and he was proceeded against exparte and decree of divorce was passed in her favour vide order dated 14.10.2016. She averred that at the time of marriage, respondent was doing job in Max Company at Patiala and he was earning more than Rs. 50,000/- per onth and he is having his own house at Patiala and he also owns a plot measuring 125 square yards and he is having some ancestral property at Patiala. She averred that respondent is MBA and well qualified and now a days, he is earning Rs.30,000/per month. She averred that she is earning nothing and is totally dependent upon respondent. She averred that respondent has failed to maintain her despite all sources and she averred that respondent be directed to pay Rs. 20,000/- monthly interim maintenance to her.

3 Notice of the application was given to respondent who filed reply taking preliminary objectios that petition is ot maintainable in the present form. On merits, it is denied that marriage was arrange marriage and the parents of petitioner arranged a marraige function with great pump and show as per desire and demand of respondent and his parents. It is further submitted that petitioner has left the job but she left the job at her own wish. It is denied that after shifting to Patiala, the petitioner was given beatings and then respondent and his mother gave some marraige photograph of respondent with one girl namely Nisha alongwith

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complaint of Nisha, statements and complaint of mother of respondent and affidavit of Triloki Nath father in law of petitioner. It is denied that petitioner was shocked to know about the earlier marriage of respondent with said Nisha and on asking against this, the respondent gave merciless beating to petitioner and threatened the petitioner with dire consequences. It is denied that on 19.08.2014, respondent gave merciless beating to petitioner and thrown out petitioner from the house and since then she is residing with her parents at above said address. It is denied that respondent and his family members have been harassing the petitioner for bringing few dowry. It is denied that respondent is doing job in Max Life Insurance Company Patiala and is earning Rs. 50,000/- per month. It is denied that beside this respondent have own house at Patiala and a plot measuring 125 Square yards at Mata Gujri, Kharar , Distt SAS Nagar and some other ancestral property at Patiala. It is denied that petitioner is solely dependent upon her parents. It is denied that parents of petitioner have no sufficient amount to maintain the petitioner as the father of petitioner has retired from his job in the month of January, 2014. It is denied that respondent is living lavishly whereas petitioner is having no independent source of income and is totally dependant upon her poor parents. Denying all other averments of the petition, a payer is made for dismissal of petition.

4 After hearing the learned counsel for the petitioner, learned counsel for respondent and after going through the record, the learned trial Magistrate vide the impugned order dated 16.02.2019 allowed the

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application for interim maintenance and had ordered the revisionist/respondent to pay Rs. 5000/- per month to respondent/petitioner in the application under Section 125 Cr.P.C.

5 By aggrieving of the aforesaid order, revisionist/respondent has filed the present revision to for setting aside the impugned order dated 16.02.2019.

6 Notice of the revision petition was served upon the respondent. Respondent appeared through counsel .

7 Record of learned trial court was requisitioned.

8 I have heard Sh. J.S.Rangila Advocate, counsel for revisionist, Sh. G.S.Prince Advocate, counsel for respondent and have gone through the record carefully.

9 Contention of learned counsel for revisionist is that order passed by learned trial court is totally against law and fact. It is argued that respondent is well educated lady and her account statement shows that she is earning lady and is earning handsome salary. Contention is that one Rama wife of Ramesh Kumar appeared in case titled as 'State vs. Kunal Bhardwaj' and in her cross-examination, she admitted that respondent is qualified and she is M.Ed, Msc (B.A., B.Ed) and is now working. Accordingly, argument is that when respondent is established to be doing job, so it cannot be said that respondent is unable to maintain herself. Thus, no case for grant of interim maintenance is made out. It has been contended that revisionist/petitioner faced trial under Section 406,498 A IPC. Earlier he remained in custody in a case registered under Section

376 IPC. No income of revisionist could be established on file. So, in this situation, no case for grant of maintenance in favour of respondent is made out. Accordingly, prayer is that revision petition may kindly be allowed.

10 On this other hand, this submission has been refuted by learned counsel for respondent. Contention is that order passed by learned lower court is perfectly in accordance with law. Revisionist /respondent being husband is legally and morally bound to maintain petitioner/respondent who was his wife. It has been contended that learned lower court after considering the status of parties granted maintenance @ Rs. 5000/- per month which cannot be said to be on higher side in any manner. Contention is that no document with regard to income of respondent or with regard to that respondent is doing job could be brought on file rather respondent/revisionist is rich person and is earning handsome amount. He is MBA and qualified man which he is concealing. So, as per status of parties, revisionist/respondent is fully competent to live as per status of petitioner/respondent. No case for interfering in the order passed by learned trial court is made out. In last, it is prayed that revision petition be dismissed.

11 Submissions have been considered and file has been perused minutely.

12 In the present case, this fact is not disputed that respondent was married to revisionist and they lived together. Learned lower court rightly mentioned that provisions under Section 125 Cr.P.C is

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a benevolent provision and same has been enacted to save the wives and children from starvation and vagrancy. Allegations levelled by respondent and defence taken by revisionist are matter of trial and can be seen when both the parties led their evidence on their respective plea. Though, it has been contended that respondent is established to be working women and she is earning by doing job but no document with regard to that available at the time of passing of impugned order could be detected from the file. Learned lower court after considering the material on file came to this conclusion that after getting ex-parte divorce, respondent is still unmarried and even a divorcee wife till remarry is fully entitled for maintenance under Section 125 Cr.P.C. Learned lower court categorically recorded that applicant/respondent has filed affidavit with regard to that she is having no source of income to maintain herself and she is not remarried yet. Documents brought on file i.e statement of Rama who appeared as PW-14 in some other case titled as 'State vs. Kunal Bhardwaj' cannot be said to be binding upon the revisionist's wife at the stage of deciding application for interim maintenance .

13 Thus this court has come to this conclusion that learned lower court rightly came to this conclusion that applicant/respondent is entitled for interim maintenance from the revisionist. So far as , quantum of maintenance is concerned, it is settled law that respondent is entitled to live as per status of revisionist. Admittedly, there was no specific denial from the side of revisionist that earlier he was working and was doing job. He is well qualified person as he is MBA and in this eventuality, learned

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lower court rightly came to this conclusion that in the facts and circumstances of case, respondent/revisionist is in a position to pay Rs. 5000/- per month as interim maintenance from the date of application.

14 No illegality or perversity in the impugned order could be brought to the notice of this court entitling this court to interfere in the impugned order.

15 Hence, revision is found to be without any merit and same is dismissed accordingly.

16 Record of learned trial court be returned alongwith copy of judgment.

17 File be consigned to Record Room.

Pronounced .15.01.2024

Jyotsna, stenographer I

(Krishan Kumar Singla)
Additional Sessions Judge,
SAS Nagar
UID No. PB0197