

IN THE COURT OF SH.VARINDER KUMAR, PCS, JUDICIAL
MAGISTRATE IST CLASS, LUDHAIAN

Criminal Case no.75 dated 03.11.15

Computer Entry No.MNT/613/2015

RBT no.89 of 21.03.16

Date of order: 23.05.2016

Next date of hearing:14.07.16

- 1 Poonam Mittal wife of Abhishek Mittal and daughter of Narsi Ram Singla,
- 2 Udhav Mittal minor son of Poonam Mittal through her mother, Poonam Singla wife of Abhishek Mittal, who has no adverse interest to that of minor, both residents of house no. 2295, Radha Swani Road, Arjan Nagar, Gill Road, Ludhiana.

.....Applicants.

Versus

Abhishek Mittal son of Sh. Satkrishan Kumar resident of house no. 32, St. no.2, Ashapuri, Bareawal Road, Ludhiana.

.....Respondent.

(Application Under Section 125 of Cr.P.C.)

Application for interim maintenance

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Present:- Sh. Munish Mittal Advocate, counsel for the applicant
Sh. Ashwani Sharma Advocate counsel for respondent.

ORDER:

The relevant facts of the present application are that applicant no.1 was married with the respondent on 20.01.2014 according to Hindu religious rights and ceremonies at Ludhiana. The said marriage was duly consummated and out of said marriage one child i.e. applicant no.2 namely Udhav Mittal was born who is presently in the care and custody

of the applicant no.1. It is alleged that the parents of applicant no.1 give sufficient dowry at the time of her marriage which was entrusted to the respondent and his family members. The respondent and his family members started harassing and beating the applicant no.1 for the demand of more dowry. In the month of October, 2014 when the applicant was pregnant, she was severely beaten by the respondent and his family members. The bad behaviour of the respondent and his family members towards the applicant no.1 remained continued. On 05.05.15 the parents of the applicant no.1 took her to parental house because the respondent and his family member tried to kill her. The respondent and his family members raised the demand of Rs. 5 lacs. The applicant no.1 moved a complaint to the police, but the police did not take any action against the respondent and his family members. The applicant was sent to matrimonial house, but against she was expelled from the matrimonial house for non-fulfillment of demand of more dowry. The applicants are residing with the parents of the applicant no.1 at their mercy. The applicants have no source of income to sustain livelihood and applicant no.1 is fully dependent on the mercy of her parents. On the other hand, the respondent is man of means. He is working in as plant manager in M/s Vidhata Plywood and he is drawing salary of Rs. 60,000/- per month. He is also doing the work of property consultant and he is earning Rs. 20,000/- per month. He is also earning Rs. 10,000/- from his bank savings. From the all the sources the monthly income of the respondent is Rs. 90,000/- per month. The applicants are entitled to interim maintenance

and litigation expenses. Hence, the present application.

2 In pursuance of notice, the respondent appeared and filed reply to the application taking preliminary objections that the application is not maintainable, the present application is false, frivolous and vexatious to the knowledge of the applicant, the applicant has not come to the court with clean hands. The applicant no.1 has withdrawn from the society of the respondent without any reason at her own. The applicant no.1 has refused to join the society of the respondent inspite of request of the respondent. The allegations levelled in the application are specifically denied. The respondent stated that he has already resigned from the job with M/s Vidhata Plywood and now he is working in Atul and Company, Moga and getting salary Rs. 11,000/- per month. He alleged that the applicant no.1 is B.sc, B.ed and she is doing tuition work and from there she is earning Rs. 20,000/- per month. She is also teaching in a private school on monthly salary of Rs. 15,000/- per month. Denying all the other averments the respondent prayed for dismissal of present application.

3 I have heard the learned counsel for the parties and have carefully gone through the judicial file. The marriage between the parties is not disputed. It is also not disputed that the applicant no.2 is the minor son born from the wedlock of applicant no.1 and respondent. The applicant alleged that the respondent is earning Rs. 90,000/- per month from his salary as well as other sources. The applicant at this stage has failed to produce any document to prove the alleged income of the respondent. The respondent on the other side alleged that the applicant

no.1 is teaching in a private school, but he also failed to produce on record any document qua this fact. The applicant has placed on record the photocopy of cutting of newspaper where the respondent made advertisement qua proposal of marriage and in the said advertisement it is specifically stated that the respondent is M.B.A and he is earning Rs. 5 lacs per annum. It is not believable that a person having qualification of M.B.A and drawing salary of Rs. 60,000/- per month after resigning from his job will do the job having meager salary of Rs. 11,000/- per month. Keeping in view of the prevalent salaries provided by multinational companies to the M.B.A. qualified persons, the salary of the respondent is considered as Rs. 30,000/- per month for the purpose of deciding the present interim application.

4 In view of what has been discussed above and without commenting upon the merits of the allegations leveled by the parties to the present petition against each other, I am of the considered view that the applicants are entitled to be maintained by the respondent as it is the legal duty of the respondent to maintain his wife and child. Hence, keeping in view of the above said income of the respondent as well as in view of status of the parties, costs of living at the present time, the applicants are granted ad-interim maintenance to the tune of Rs.8000/- per month i.e. Rs.5000/- for applicant no.1 and Rs. 3000/- for applicant no.2 from the date of the application. The applicant is also awarded Rs.5000/- as litigation charges. The respondent is directed to pay the maintenance amount to the applicant before 10th day of each month. However, my

observation made above would have no bearing on the merits of this case.

With these observations, the application under reference is allowed. Now,

to come upon 14.07.2016 for payment and for evidence of the applicant.

Pronounced in open Court.
Dated: 23.05.2016.

Varinder Kumar,PCS,
Judicial Magistrate Ist Class
Ludhiana.