

Simla Devi @ Simran Vs. Kishan Singh

***In The Court Of Mrs.Roopa Dhaliwal, PCS, Judicial Magistrate First
Class, Dasuya.***

Petition No. 6
Date of Instt. 06.07.2015
Date of Order: 02.11.2015
CIS No.MNT 41/2015.

1. Simla Devi alias Simran wife of Kishan Singh D/o Sh. Tarsem Lal R/o Vill. Kang Mai, P.S. Haryana and Tehsil- Dasuya, Distt. Hoshiarpur presently at village Mastwal, Police Station Garhdiwala, Tehsil- Dasuya, Distt. Hoshiarpur.
2. Manjinder Singh Minor son of Kishan Singh R/o Vill. Mastwal, Police Station Garhdiwala, Tehsil Dasuya, Distt. Hoshiarpur, through his mother and natural guardian Smt. Simla Devi alias Simran applicant No.1 who have no adverse interest against the minor.

.....Applicants

Versus

Kishan Singh son of Swaran Singh R/o Kang Mai, Police Station Haryana, Tehsil & Distt. Hoshiarpur.

.....Respondent.

(Application U/s 125 Cr.P.C. for grant of maintenance allowance)

Present: Sh.M.S. Mathon, Adv. counsel for the petitioner

Sh.L.S. Sarva, Adv. counsel for the respondent.

Order:-

1. This order of mine will dispose of the application for grant of interim maintenance filed by the petitioners.
2. In brief, the facts mentioned in the application are that the marriage of the petitioner No.1 with respondent was solemnized on 17.08.2005 at

Vill. Chhangla according to Hindu Rites and one male child namely Manjinder Singh was born out from their wed lock on 11.06.2006. That the respondent firstly was married and he after the solemnization of the marriage started beating and harassing his first wife and he harassed and beaten her to that extent that she took poison and end her life to the bad behaviour of the respondent. That Sh. Puran Singh R/o Vil. Mastiwal is the husband of the sister of the applicant and his sister was married to Parshotam Singh who is the real brother of the respondent. Puran Singh arranged the marriage of the applicant with the respondent after the death of the first wife of the respondent on 17.08.2005. The respondent and her family members blamed Kamlesh Kaur for the death of first wife of respondent. That the parents and relatives of the applicant spent Rs. 1,50,000/- on the marriage of applicant and out of which dowry articles of worth Rs. 1 lakh were given to the respondent and Rs. 50,000/- was spent as miscellaneous expenses at the time of marriage of the applicant. That the respondent and her family members blamed Kamlesh Kaur for the death of first wife of respondent and on account of that they started harassing and beating Kamlesh Kaur the real sister of the applicant after the marriage of the applicant with the respondent and ultimately they forcibly gave poison to Kamlesh Kaur and due to the poison she died on 27.11.2014. That during the enquiry the applicant made statement before Sh. Dhruv Dhaya ASP Dasuya i.e. Enquiry Officer on 04.01.2015 that all the accused Kishan Singh and others has given poison to Kamlesh Kaur and due to the poison she died on 27.11.2014. On 04.01.2015 when the applicant made statement

during the enquiry then after the statement the respondent and his all family member became enemy of the applicant and they all threaten her that she has made statement against them and now they will also liquidate her at any cost and will not spare her and liquidate her also like Kamlesh Kaur and then the applicant came to her sister's house on the same day at village Mastiwal and since then she is residing there. That the applicant has made true statement before the police on the real facts and in this way the respondent has deserted the applicant without any reasonable cause or excuse and without the consent of the applicant for the last more than five months. That the respondent never maintained the applicant. She has no source of income of her own. On the other hand the respondent is doing job of mirror cutting at Tanda Town and has also landed property in his name and from all the sources he is earning Rs. 25,000/- per month and prayed that the respondent be directed to pay Rs. 10,000/- per month as maintenance to the petitioners (Rs. 5000/- each).

3. Upon notice respondent appear in the Court and filed reply and taking preliminary objections that the present petition is not maintainable as the applicants were never deserted or neglected by the respondent. That the applicants have withdrawn themselves from the company of respondent, hence they are not entitled for any relief. On merits it is submitted that the marriage was solemnized in a very simple way without dowry and gold ornaments. That the respondent is a labourer and is earning Rs. 250/- daily. That two children who are from his first marriage and aged mother is living with him and all these three members

are entirely depending upon the respondent. On the other hand the applicant No.1 is also earning hand and she earns Rs. 4000/- per month from tailoring and embroidery work and prayed for dismissal of the application.

4. I have heard the rival contentions of both the parties and have gone through the documents placed on record. It has been argued by the Ld. Counsel for the respondent that the respondent is a labourer and earning Rs. 250/- daily and has two children who are from his first marriage and aged mother is living with the respondent who are entirely depending upon him. On the other hand, the petitioner had submitted that the respondent is doing job of mirror cutting at Tanda Town and has also landed property in his name and from all the sources he is earning Rs. 25,000/- per month. No document regarding his earning of Rs. 25,000/- was placed on record by the petitioner neither the respondent has placed on record any document to substantiate his claim that he is merely earning Rs. 250/- per day. However, at this stage when the relationship between the parties as husband and wife is admitted. Thus the respondent being the husband of the petitioner No.1 and the father of petitioner No.2 is legally and morally bound to maintain them. Keeping in view the rise in prices, the day to day expenses and daily necessities like clothes, medicines, food and other unforeseen incidental expenses a total amount of Rs.2,000/- per month for petitioners is considered to be bare minimum, which the respondent must pay to the petitioners as maintenance. With these observations, petition stands allowed and the respondent is ordered to pay an amount of

Rs.2,000/- per month to the petitioners (Rs. 1000/- each). It is further ordered that this amount shall be payable by the respondent from the date of petition.

5. As per judgment of **Hon'ble Punjab and Haryana High Court** in case titled as “**Jyoti Burmi Vs. Anusandeeep Burmi dated 03.06.2011 in Civil revision No.7407 of 2010**”, the respondent is directed to pay amount of maintenance on or before 10th of every month. The applicant is also directed to disclose her bank account number if she is having any bank account, then the respondent will deposit the amount directly in the bank account of applicant.

6. However, these observations of mine shall have no effect on the merits of the case. Now the case is adjourned to 19.12.2015 for payment and also for evidence of the petitioner.

Announced:Dated:02.11.2015.

(Roopa Dhaliwal), PCS
Judicial Magistrate First Class,
DASUYA