

(2018) 09 CHH CK 0084

Chhattisgarh High Court

Case No: CRMP No. 820 Of 2018

Satpal Singh Pahuja And Others

APPELLANT

Vs

Preeti Pahuja And Others

RESPONDENT

Date of Decision: Sept. 6, 2018

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 125, 482

Hon'ble Judges: Manindra Mohan Shrivastava, J

Bench: Single Bench

Advocate: Anubhuti Marhas, Upasana Mehta

Final Decision: Allowed

Judgement

Manindra Mohan Shrivastava, J

1. This petition, under Section 482 CrPC has been filed challenging order dated 27/10/2017 by which, the Revision Petition has been dismissed in the matter of challenge to an order of maintenance.

2. In proceedings under the Domestic Violence Act drawn at the instance of respondent No.1, an order of interim maintenance was passed by the

Magistrate on 29/04/2016, awarding Rs.1600/- each to two daughters - Avneet Kaur and Ranpreet Kaur. The order is challenged mainly on the

ground that in proceedings under Section 125 CrPC, maintenance has already been awarded and an amount of Rs.3500/- directed to be paid by way of interim maintenance, ought to be taken into consideration.

3. Learned counsel for the petitioner submits that the learned Courts below have acted perversely in not taking into consideration that the High Court

in Criminal Revision No.979/2015 passed an order on 16/09/2016 enhancing the maintenance amount under Section 125 CrPC, taking into consideration the cost of education and other expenses required for growing daughters. It is argued that initially, interim maintenance amount of Rs.3500/- was awarded in 125 CrPC proceedings which was enhanced to Rs.6,000/- by the High Court. This aspect was not taken into consideration resulting in a situation where at the stage of grant of interim maintenance, petitioners, particularly the father, is required to pay huge amount, which he may not be able to pay.

4. On the other hand, learned counsel for the respondent submits that looking to the hike in price and cost of living, award of Rs.1600/- each to the daughters who are school going girls, cannot be said to be excess so as to warrant interference in these proceedings under Section 482 CrPC.

5. It is not in dispute that vide order dated 16/09/2016 passed in Criminal Revision No.975/2015, this Court enhanced the maintenance amount from Rs.3500/- to Rs.6,000/- in 125 CrPC proceedings.

6. The main operative consideration for enhancement was that the daughters are in their growing age and the wife is required to incur expenses towards education, medical and standard of living. The impugned order does not refer to this aspect at all and has mechanically affirmed the order passed by the Magistrate.

7. Taking into consideration that under the order passed by this Court earlier, the petitioner is already required to pay Rs.6,000/- and further that the order passed almost two years before, in the considered opinion of this Court, interest of justice would be met if the order of interim maintenance awarded by the Magistrate in proceedings under the Domestic Violence Act are modified in the manner that the petitioner shall pay Rs.500/- to each of the daughters in addition to Rs.6,000/- which has already been awarded in 125 CrPC proceedings.

8. The petition is accordingly allowed in part.