



IN THE COURT OF MS. VANI GOPAL SHARMA, DISTRICT JUDGE/FAMILY
COURT, GURGAON

MNT/19/13/18 15-2-18

1. a wife of _____ and daughter of Sh. Sa _____
presently residing at House No. _____ Sector _____ Gurugram.

Master _____ al minor son of Sh _____ al presently residing at House
No. 1, Sector _____ Near _____ Gurugram, through her mother and
natural guardian Smt _____

... Petitioners

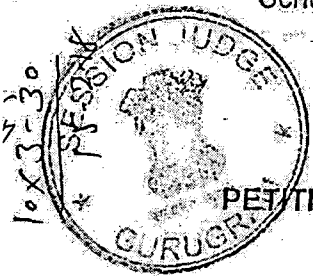
Versus

S _____ al son of Sh. Ja _____ al C/o T _____
Block _____, Ki _____ Road, _____
Gurugram, Haryana

> ALSO c/o House No. _____ Sector _____ Gurgaon,

> Permanent resident of House No. _____ Sant Nagar _____
School, Patiala Chowk, Jind, Haryana

... Respondent



PETITION UNDER SECTION 125 CRPC FOR MAINTENANCE AND FOR
LITIGATION EXPENSES ON BEHALF OF PETITIONERS

MNT/19/15/2/18

NDY - 28/3/19

certified copy of order dt. 17/1/19

ATTESTED

Examiner
Copying Agency
Distt. & Sessions Court
Gurugram

25/1/19

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Present: Shri Vishal Gupta, Advocate for the petitioner.
Shri Vipin Gupta, Advocate for the respondent.

An application for interim maintenance has been filed by the applicant no.1/wife (hereinafter referred to as 'the applicant') on her behalf and on behalf of her minor son.

2. It is submitted that due to the act and conduct of the respondent, the applicants are being forced to live at the mercy of others. They have no independent source of income. The applicant is unable to maintain herself and her son. The applicant requires expenses for food, clothing, residence, medical, educational and other incidental expenses relating to normal pursuits of life. The respondent is a healthy and able bodied person having more than sufficient income. He is living jointly with his family. To the knowledge of the applicant, the respondent has multiple ancestral as well as self acquired properties in his name and assets as well, from which he is fetching handsome amount of rental and agricultural income. The family has ancestral agricultural land to the extent of 6 acres in village Kumbh, Hansi and Hisar which also adds income of not less than ₹1.50 lacs per annum. One residential plot also stands registered in the name of the respondent's mother in Jind which also generates good amount of rental income.

The respondent himself is serving with Tata Consultancy Services, a multinational leading Indian IT firm, as an IT developer and is

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Dist. & Sessions Court

Sd/-

(Vani Gopal Sharma)

Principal District Judge, Family Court

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drawing handsome salary of not more than ₹80,000/- per month. His salary also includes health insurance of the spouse as well as the children. His father is retired SDO and drawing pension of ₹45,000/- per month. The respondent is thus, earning more than ₹2 lakhs per month and has no other liability except to maintain the applicants. It is, therefore, prayed for allowing the interim maintenance to the tune of ₹70,000/- per month for the applicants.

3. No reply to the application for interim maintenance was filed. However arguments were advanced on the basis of the reply. Both the parties have filed their respective affidavits regarding their income and expenditure.

It is argued on behalf of the respondent that applicant belongs to an affluent family and is living a lavish life whereas the respondent has to live in penury. It is argued that respondent is the only son of his parents and entire family income is at his disposal. It is submitted in the written statement, it was the applicant herself who was never interested in family life. She is a short tempered, violent, self centered, arrogant and of quarrelsome nature and never looked after the household responsibilities. She and her family members have been threatening the respondent of false implications in criminal cases. The family relations deteriorated due to various episodes mentioned in the written statement. However, on 04.02.2015 a *panchayat* was convened where father of the applicant felt

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sorry for his daughter's wrongs and promised that same shall not be repeated in the future. However, she started recording everything that was being discussed in the respondent's family. Later on she insisted on getting partition from the family and started living separately in Gurugram after purchasing a flat in her name.

It is submitted that applicant started doing a job in a Company called Plan for Events on 28.5.2015 in Sector-55, Gurugram at the post of Senior Sale Executive and drew a handsome salary. The respondent also moved to Gurugram after getting work assignment and requested the applicant to live in Shanti Nagar, Gurugram with respondent but the applicant made a complaint in Sector-56, Gurugram and was ill treated by the police. A false and frivolous complaint was also filed with SSP, U.T. Chandigarh on 29.7.2015. Police started calling the respondent, and his family members were called number of times in the police station. The said complaint was the counter blast to the petition filed by the petitioner under Section 13 of HMA on the ground of desertion and cruelty on 03.7.2015 but later on withdrew the same on 02.7.2016 for the sake of his child. The applicant demanded ₹20 lakhs when the respondent asked her to join him, as such she is not entitled to any maintenance from the respondent. The respondent is pursuing LLB and is currently a student of LLB 2nd year and also has responsibility of aged parents. He has to pay rent of his rented accommodation, college fee, LIC policies etc. and has also to pursue his cases filed against him by the applicant.

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It is submitted that the applicant has 55 tolas of gold in her possession and more than ₹10 lakhs as cash and FD in her bank account. She is highly educated person and earning more than ₹50,000/- per month as salary. Apart from regular job, she is also running a boutique named _____ at Designs and from boutique business, she is earning not less than ₹35,000/- per month. The child has also been admitted in costly school because she is able to afford the same since she deserted the respondent on 22.3.2015. She is PGDM in Marketing and HR and has already worked with India Bulls Ltd. Big Bazar, A.K. Industries and Plan for Events. She is also running a high end boutique of ladies apparels named _____ at Designs. As such she is earning ₹85,000/- per month and is thus not entitled to any maintenance from the respondent.

4. Corroborating the version in the written statement, learned counsel on behalf of respondent has pointed out the various documents placed on record which shows the applicant's visiting card of _____ at Designs Boutique and the screen shot of the site of _____ at Designs which displays phone No. 9582628012, which belongs to the applicant.

5. After having heard both the sides and perusing the records, it would transpire that from the prima facie documents placed on record by the respondent, it would appear that the applicant is a highly qualified lady and must be having handsome income. Though in her affidavit she has flatly denied having any income except ₹2,750/- per month

as interest from FDR. It is the matter of concern that such amount of interest per month can be fetched only on very high amount of FDR. Perusal of statement of assets in para no.6 of the affidavit shows that her current balance in HDFC Bank is ₹75,000/- and in SBI ₹30,000/- and she has ₹1000/- in cash in hand. She has not disclosed any FDR in her name, which is apparently not the correct position. As such the affidavit filed by the applicant seems to be against the factual position. On the other hand, as per the affidavit filed by the respondent, his monthly income is ₹48,031/- as on July 2018. He has also claimed that he has no other income except the salary. Both the parties shall lead evidence in support of their respective stand. At this stage, it would appear that applicant no.1 is having sufficient income to look after herself. However, the minor child is the responsibility of both the parents.

Accordingly, the respondent is directed to bear the education expenses of the child i.e. to say all the expenses which have to be paid directly in the school. The applicant no.1/wife shall inform regarding all the expenses to be directly deposited in the school of the applicant no.2, to the respondent well in time through email or text messages. Remaining expenses of the child shall be borne by the applicant no.1.

6. Nothing in this order shall have effect on the merits of the case, when it is taken up for final disposal.

The application is accordingly disposed of.

Now, the petition is to be fixed for evidence of the

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As per Sub Section (2) of Section 10 of the Family Courts Act, 1984, in the proceedings under Chapter IX Cr.P.C. before a Family Court the provisions of the Cr.P.C. shall apply but this is subject to other provisions of the Family Courts Act, 1984. As per sub Section (3) of Section 10 of the Family Courts Act, nothing in Sub Section (1) of Sub Section (2) shall prevent a Family Court from **laying down its own procedure** with a view to arrive at the truth of the facts alleged by the one party and denied by the other.

Therefore, in order to settle the disputes between the parties with regard to the maintenance at an early date, it is ordered that the parties shall, in their evidence place on record affidavits only, supported with documents, if any, in respect of their respective claims. Hence, to come up on **28.3.2019** for payment and **evidence of parties**. The parties will have to move an application, if they want to cross-examine the opposite party/witnesses, as otherwise, summary procedure shall be adopted.

Pronounced in open court.

Dated: 17.01.2019

Next Date: 28.3.2019.

Purpose : proof of Payment/PWs

Musika Stenographer-G

CERTIFIED TO BE TRUE COPY

11/1/19

(Vani Gopal Sharma)
Principal District Judge, Family Court,
Gurugram (UID No.HR0073)

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