IN THE COURT OF DR.ABDUL MAJID, (ADDL.DISTRICT AND SESSIONS JUDGE), DISTRICT JUDGE (FAMILIY COURT), AMBALA.

Filing No. : 060200017412013.

Petition No. : 20 of 2013. CIS No. : 761 of 2013. Date of Institution : 04.02.2013. Date of Order : 04.09.2015

- 1. Neha Verma @ Mahima wife of Shri Gaurav Verma daughter of Shri Kushalpal Singh, aged 28 years.
- 2. Master Purjit son of Shri Gaurav Verma aged 2 and quarter yeas through his natural mother Neha Verma both C/o Kushal Pal Singh, resident of Block Colony, Basi Kiratpur, Near Veterinary Hospital, Kiratpur, District Bijnour (UP).

..... Petitioners.

Versus.

Gaurav Verma son of Shri JK Verma C/o Shri R.K.Achraj, aged 30 years, resident of H.No.136-B/1, Gobind Nagar, Ambala Cantt serving in Indian Army Unit No.Signal Unit,Regiment 1 Coy. C/o 56 APO.

..... Respondent.

Petition under Section 125 of the Code of Criminal Procedure, 1973

Argued by: Shri Virendra Verma, Counsel for the petitioners. Shri Sudhir Sehgal, Counsel for the respondent.

ORDER:

Petitioners have filed the present petition under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.') for claiming maintenance from respondent.

2. Facts, in brief, pleaded by the petitioners in the instant

Neha Verma Vs.Gaurav Verma

2

petition are that marriage of the petitioner No.1 was solemnized with the respondent on 20.04.2008 at Kiratpur Bijnour, as per Hindu rites and ceremonies but was consummated at Ambala Cantt. The petitioner No.1 pleaded that although sufficient dowry was given by her parents at the time of marriage but after the marriage, she was maltreated with cruelty by the respondent and his mother for demand of dowry and was turned out of the matrimonial home. The petitioner No.1 further pleaded that she stayed with the respondent from 08.08.2009 to 17.03.2010 and returned alongwith the respondent upon his annual leave and the respondent left the petitioner at her parental home. One male child namely Purjit Singh was born out of the said wed-lock on 04.11.2010 at her parental home, but neither the respondent nor his family members came to see the newly born baby. Even the ceremonies and other rituals for the newly born baby were solemnized on 23.11.2010 by her family members in the presence of all other relatives except the respondent and his parents. The petitioner No.1 further pleaded that during her stay in the company of the respondent, she was given merciless beatings resulting to cause fracture on Nasal Bone. Accordingly, she was advised by the Army Officer to leave the company of the respondent as the life of the petitioner was not safe in the hands of the respondent at that time. The respondent is not fulfilling his duty as a husband and as a father for minor son Purjit and always tried to keep away the petitioners, who are now residing at Kiratpur (Bijnour) since 09.08.2011 due to the act and

Neha Verma Vs.Gaurav Verma

3

conduct of the respondent. The respondent being employed in Indian

Army is drawing salary more than Rs.30,000/- per month, whereas the

petitioner No.1 has got no source of income and unable to maintain

herself as well as the minor child. She prayed for grant of maintenance of

Rs.15,000/- per month for her maintenance as well as for maintenance of

minor child, besides litigation expenses of Rs.15,000/-.

3. Upon notice, respondent appeared and filed written statement

raising certain preliminary objections as to the petition being false and

base-less. The respondent already having filed petition under Section 9

of the Hindu Marriage Act, 1955 and as such the present petition is not

maintainable. In reply on merits, the respondent admitted the petitioner

No.1 to be his legally wedded wife and petitioner No.2 having born out of

the said wed-lock. However, the respondent denied all the allegations

levelled against him and his family members. Neither the respondent nor

his family members demanded any dowry from the petitioner No.1 and

her family members. The respondent tried his level best to give all

facilities to the petitioner and his minor son. The respondent admitted

having employed in Indian Army but denied that he is drawing salary of

more than Rs.30,000/- per month. The respondent's mother never lived

with him at any station during his duties. The respondent pleaded that the

petitioner is working as a teacher in Satyawati Memorial Academy Kasur

Road, Kiratpur, Bijnaur, UP and getting Rs.10,000/- per month as salary.

Denying all other allegations the respondent prayed for dismissal of the

Mnt.Pet.No.20 of 2013 Neha Verma Vs.Gaurav Verma

4

petition.

4. To prove their case, petitioner No.1 herself appeared in the

witness box as PW1 and tendered her affidavit Ex.PW1/A. Thereafter,

she closed her evidence. On the other hand, respondent himself appeared

in the witness box as RW1 and tendered his affidavit Ex.RW1/A.

Thereafter, respondent closed his evidence.

5. I have heard Shri Virendra Verma, learned counsel for the

petitioners and Shri Sudhir Sehgal, learned Counsel for the respondent

and have gone through the record carefully.

6. Petitioners have filed instant petition seeking maintenance

from the respondent levelling allegations of cruelty against him. To

prove her case, petitioner No.1 herself has appeared in the witness box as

PW1 and filed her affidavit Ex.PW1/A on the lines of her petition. As

against this, respondent himself appeared in the witness box as RW1 and

tendered his affidavit Ex.RW1/A on the lines of his written statement and

denied the allegations of the petitioners. Despite efforts being made by

the respondent for rehabilitation of the petitioners in the shape of petition

filed by him under Section 9 of the Hindu Marriage Act, 1955 the

petitioner No.1 failed to join the matrimonial company of the

respondent.

7. The inter-se relation between the petitioners and the

respondent is not disputed. The point for determination in the first

instance in the instant case is as to whether the petitioners are entitled to

Mnt.Pet.No.20 of 2013 Neha Verma Vs.Gaurav Verma

5

claim maintenance from the respondent. The provisions of Section 125

of the Cr.P.C. are benevolent provisions designed to prevent vagrancy and

destitution. Maintenance means shelter, food, medicine and other means

of life.

8. From the evidence of the petitioners placed on record, it is

clear that there are basic disputes between the parties. It is admitted that

the petitioners are residing separately from the respondent. In his cross-

examination, respondent himself admitted that after his posting in

Ambala, he did not go to meet the petitioners. He did not make any

effort to bring back the petitioners at his posting at Ambala. Although he

filed petition under Section 9 of the Hindu Marriage Act, 1955 but

lateron he had withdrawn the same. This fact itself clearly shows that the

respondent is not performing the duties of a husband as also a father.

From these facts, it can safely be presumed that the relations between the

parties are not cordial to live together and it cannot be said that

petitioners willfully without having any reason are living separate from

the respondent. Keeping in view the facts and circumstances of the case,

both the petitioners cannot be restrained from claiming maintenance from

the respondent.

9. So far as quantum of maintenance is concerned, the

petitioners have pleaded the income of the respondent to be Rs.30,000/-

per month being employed in Indian Army. In his affidavit Ex.RW1/A,

the respondent admitted the factum of his employment but deposed that

Neha Verma Vs.Gaurav Verma

6

the respondent is earning equivalent to that of the earnings of the

petitioner No.1 as the petitioner No.1 is working as a Teacher in

Satyawati Memorial Academy Kasur Road, Kiratpur Bijnour (UP) and

also taking tuitions at her home. Thus, the petitioner No.1 is earning

Rs.15,000/- per month. However, the plea of the respondent stands

falsified from document Mark-E i.e. RTI information, according to which

Satyawati Memorial Academy supplied information to the effect that no

person by the name of Neha daughter of Sh.Kusalpal Singh is working at

the Academy at present. In his cross-examination, the respondent

admitted that his basic pay is Rs.9,090/- per month and DA is Rs.16,000/-

per month. However, from the salary slip Mark-A, the gross-salary of the

respondent is Rs.33,970/- per month. There is no rebuttal to this

document.

10. Hence, taking into consideration the rise in prices, living

standard of the parties to the petition, their social status, income of the

respondent and his responsibilities in different ways as also needs of the

petitioners, I allow this petition in favour of the petitioners with costs

and deem it just and proper to put responsibility upon the shoulders of the

respondent to pay a sum of Rs.2,000/- per month each to the petitioners

(Rs.2,000/- to the petitioner No.1 and Rs.2,000/- to the petitioner No.2)

from the date of filing of the petition. Hence, I order accordingly.

However, it is made clear that amount of interim maintenance, if any,

awarded to the petitioners during the pendency of the petition shall be

Neha Verma Vs.Gaurav Verma

7

adjustable with the amount so awarded. The petitioners are also held entitled to get litigation expenses from the respondent at the rate of Rs.4,000/- to be shared by them equally. Memo of costs be prepared accordingly. File be consigned to the record room after due compliance.

Announced in open Court. 04.09.2015.

Ջ

Present: Shri Virendra Verma, Counsel for the petitioners.

Shri Sudhir Sehgal, Counsel for the respondent.

Arguments heard. Vide separate order, instant petition has been disposed of. Memo of costs be prepared. File be consigned to the record room after due compliance.

Announced in open Court. 04.09.2015.

IN THE COURT OF DR.ABDUL MAJID, (ADDL.DISTRICT AND SESSIONS JUDGE), DISTRICT JUDGE (FAMILIY COURT), AMBALA.

Filing No. : 060200017412013.

Petition No. : 20 of 2013. CIS No. : 761 of 2013. Date of Institution : 04.02.2013. Date of Order : 04.09.2015

Neha Verma Gaurav Verma Versus.

Petition under Section 125 of the Code of Criminal Procedure, 1973

Memo of costs.

1.Stamp for petition.2.Stamp for power3.Pleader's fee4.Subsistence for witnesses5.Service of process6.Miscellaneous	Petitioner 10.00 02.00 00.00 00.00 50.00 20.00	Respondent 00.00 02.00 00.00 00.00 00.00 10.00
Total	82.00	02.00

Given under my hand and the seal of the court this i.e. 4th day of September, 2015