

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Reserve: January 07, 2010

Date of Order: January 25, 2010

+ Cont. Cas(C) 482 of 2008

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25.01.2010

Gurbinder Singh

...Petitioner

Through: Mr. V.M. Issar, Advocates

Versus

Manjit Kaur

...Respondents

Through: Mr. Anish Dhingra, Advocate along with respondent in person.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. The petitioner has preferred this contempt petition against respondent alleging violation of an undertaking given to the Court of Additional District Judge, Jalandhar on 8th September 2000.

2. The petitioner and respondent are husband and wife. The petitioner was in the Army and the wife was working as a teacher in S.D. Model School, Jalandhar Cantt. The divorce and various other proceedings were going on between the parties. The parties with the intervention of their counsels entered into a settlement and this settlement was recorded by the Court. In that settlement, the respondent (wife) agreed that she will not initiate any type of action against petitioner or against children of the parties or against the parents of the petitioner and other relatives of the petitioner (the children were at that time living with the petitioner) before the Court of law or before any other authority and she would not do anything which would affect the character, status or reputation of the petitioner. The petitioner also gave a similar undertaking that he would not disturb respondent in any manner and he

would not institute any action against her either before the Court of law or before any authority and he will not try to castigate honour or character or reputation in any manner. Thereafter, before this Court in April'05, she (respondent) again filed an affidavit that she would abide by the undertaking given to the learned ADJ on 8th September 2000 and she would not harass or humiliate the petitioner in future and will not create any cause of action afresh. This undertaking was given by way of an affidavit. Thereafter, the respondent herein filed an application under Section 125 Cr.P.C. before the Jalandhar Court in August' 04 claiming maintenance from the petitioner on the ground that the petitioner had neglected to maintain her and she had no source of income. There is no doubt that the respondent had a right to claim maintenance from the petitioner, if she was not able to maintain herself. A perusal of the ex parte order obtained by her from the Court of Jalandhar shows that she concealed all material facts from the Court at Jalandhar. She did not disclose that she was working as a teacher in a school at Jalandhar and that there was an agreement between the parties arrived before learned ADJ, Delhi and that she had also filed an affidavit in the High Court that she would not unnecessarily harass the husband. Where a person after concealing the material facts about her own employment and about the undertaking given to the Court, files an application for maintenance just to harass the opposite side, after giving an undertaking to the Court that she would not harass the petitioner (husband), I consider this amounts to violation of undertaking given by her. The respondent appeared in person today in the Court and admitted that at the time she filed the petition in the Jalandhar Court, she was gainfully employed as a teacher and she continued to remain in employment till 2008 i.e. even after passing of the order under Section 125 of Cr.P.C. A perusal of the ex parte order passed by learned JM would show that the respondent had concealed from the JM about her own employment, her salary from the school and her assets and contended that the respondent was drawing a pension of Rs.10,000/- per month and his income from other sources was Rs.20,000/- per month and she obtained an order of grant of maintenance @ Rs.3,000/- per month from the date of application. She did not disclose to this Court when she filed her affidavit in this Court in April, 2005 that

she had filed a petition at Jalandhar Court which was going on ex parte or that she had already preferred a petition under Section 125 of Cr.P.C which was pending.

3. I consider that the conduct of the wife (respondent herein) of not disclosing to this Court about a petition being pursued by her and her conduct of concealing the material information from the Court of Judicial Magistrate, Jalandhar obtaining an ex parte order was contemptuous and violation of an undertaking given by her.

4. I, therefore, hold the respondent guilty of contempt and a fine of Rs.10,000/- is imposed on her. However, after her retirement, if she seeks maintenance for herself after disclosing to the Court concerned about her pension and other income and properties, which she holds in Delhi and other places, she would be free to make a petition regarding maintenance before the Court of competent jurisdiction.

5. With above order, the petition stands disposed of.

January 25, 2010
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SHIV NARAYAN DHINGRA J.