



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

106

CRR-F-916-2024(O&M)**Date of order: 19.07.2024****Jagdeep Singh****.....Petitioner(s)****Vs.****Kajal Kaur & Another****.....Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. H.S. Randhawa, Advocate for the petitioner.

Nidhi Gupta, J.**CRM-28451-2024**

This is an application under Section 5 of Limitation Act for condonation of delay of 13 days in filing the petition.

After going through the contents of the application, which is supported by affidavit of the applicant/petitioner, the same is allowed subject to all just exceptions and delay of 13 days in filing the petition is condoned.

MAIN CASE

Challenge in the present petition filed by the husband is to the order dated 27.03.2024 passed by learned Principal Judge, Family Court, Faridkot, whereby in an application filed by the respondents under Section 125 Cr.P.C., the petitioner/husband has been directed to pay interim maintenance of Rs.4500/- (Rs.3,000/- per month to respondent No.1/wife and Rs.1,500/- per month to respondent No.2/minor son), from the date of filing the application i.e. 21.02.2022.

2024:PHHC:091249

**CRR-F-916-2024(O&M)**

2. At the very outset, learned counsel for the petitioner submits that there is no challenge to the interim maintenance of ₹1500/- per month, as granted to respondent No.2/minor son. However, as regards, respondent no.1/wife, it is submitted that the petitioner is earning only Rs.500/- per day (around Rs.15,000/- per month). As such, the petitioner does not have sufficient means to provide maintenance for respondent No.1. It is further stated that respondent No.1 has deserted the matrimonial home without sufficient cause and therefore, as per provision of Section 125(4) Cr.P.C., she is not entitled to maintenance. The petitioner has even filed a petition under Section 9 of the Hindu Marriage Act, 1955 on 24.01.2022, however, the respondent no.1 is deliberately delaying the said matter. In support of his contentions, learned counsel for the petitioner relies upon judgment of this Court in **“Raghubir Singh Vs. Krishna” Law Finder Doc ID # 68167.**

3. No other argument is made on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and perused the case file in great detail.

5. The facts as discernible from the record are that the petitioner was married to respondent No.1 on 09.09.2017. One son/respondent No.2 was born out of their wedlock on 01.08.2018. Admittedly, the minor son/respondent No.2 is single-handedly in the care and custody of respondent No.1. Due to matrimonial discord, the parties have been living separately. Present petition under Section 125 Cr.P.C. was filed by the respondents on 21.02.2022.

2024:PHHC:091249

**CRR-F-916-2024(O&M)**

6. The grant of interim maintenance is a temporary measure of social justice to help the abandoned wife and children to tide over the difficult period. The allegations of the petitioner that respondent No.1/wife had deserted the matrimonial home without sufficient cause, as also that she is deliberately delaying the proceedings under Section 9 of the Hindu Marriage Act, are all factors which can only be determined by the learned Family Court upon leading of evidence by the parties. In the meantime, there is no disputing or escaping the fact that in view of the admitted relationship, the petitioner has the moral and legal obligation to maintain his wife and minor child. The conflicting assertions of both the parties to the effect that as per the respondents, the petitioner is doing the business of confectionary and earning Rs.30,000/- per month vis-à-vis the assertion of the petitioner that he is only 5th standard pass and earning only Rs.500/- per day, are also factors which will be determined after evidence. It is not the case of the petitioner that respondent No.1/wife has independent source of income.

7. It is by now a settled trend that in matters such as the present one, the husband tries to depict his income on the lower side, whereas the wife attempts to show an exaggerated income of the husband. The truth lies somewhere in between. Without accepting, however, for the sake of argument, even if the assertion of the petitioner is taken to be correct, he cannot escape his moral and legal obligation to maintain his wife and minor child. The Hon'ble Supreme Court in "**Shamima Farooqui v. Shahid Khan**" (SC) : Law Finder Doc Id # 661024, has categorically held as follows: –

2024:PHHC:091249

**CRR-F-916-2024(O&M)**

*“B. Criminal Procedure Code, 1973
Section 125 Grant of maintenance to wife - Plea of
husband that he was not doing job and had no
means to pay cannot be accepted - These are only
bald excuses - Held :-*

*(i) If the husband is healthy, able bodied and
is in a position to support himself, he is under the
legal obligation to support his wife.*

*(ii) It is the obligation of the husband to
maintain his wife - He cannot be permitted to
plead that he is unable to maintain the wife due to
financial constraints as long as he is capable of
earning.”*

8. Admittedly, the petitioner does not suffer from any physical infirmity, and is healthy and able bodied.

9. It is oft-repeated and no longer res-integra that section 125 Cr.P.C. is a measure of social justice to protect abandoned wife, children and parents from vagrancy and destitution. In **“Kirtikant D. Vadodaria v. State of Gujarat & Another” (1996) 4 SCC 479**, the Hon’ble Supreme Court has opined as follows:

“15. ...While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve

2024:PHHC:091249



CRR-F-916-2024(O&M)

this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation... ”

10. Learned counsel for the petitioner is unable to dispute the above said factual and legal position.
11. In view of the above, present petition is **dismissed**.
12. Pending application(s) if any also stand(s) disposed of.

19.07.2024
Sunena

(Nidhi Gupta)
Judge

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>