



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116

CRR(F)-1647-2023

Date of Decision: 16.09.2024

Kavita

.... Petitioner

Versus

Narender

.... Respondents

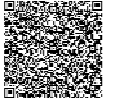
CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Palak Jain, Advocate for
Mr. Gopal Sharma, Advocate for the petitioner.

NIDHI GUPTA, J.

1. Challenge in the present revision petition is to the order dated 03.10.2023, passed by the learned Principal Judge, Family Court, Rewari, whereby in a proceeding under Section 125 Cr.P.C., the respondent-husband was directed to pay final maintenance @ Rs.2000/- per month to the petitioner-wife till he is getting salary; besides a sum of Rs.2100/- towards litigation expenses.

2. Learned counsel for the petitioner, *inter alia*, submits that admittedly, as per the salary slip Ex.P-1 of the respondent-husband for the month of June 2019, he is getting a salary of Rs.69,959/-. In fact, the said salary of the respondent-husband is likely to have only increased by now. It is submitted that accordingly, the amount of maintenance granted by the learned Family Court is on the lower side. It is further submitted that the petitioner has no source of income. She is residing in village; whereas the respondent-husband is residing in Delhi. Even litigation expenses of Rs.2100/- are also on the lower side. Thus, it is prayed that the final



maintenance of Rs.2,000/- per month as awarded vide impugned order is inadequate and the same deserves to be enhanced to the tune of at least Rs.25,000/- per month.

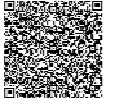
3. No other argument is raised on behalf of the petitioner.
4. I have heard learned counsel for the petitioner.
5. Perusal of the record shows that the petitioner was married to respondent on 08.05.2004. Two children were born out of the said wedlock, who are currently in the sole care and custody of the respondent. Due to matrimonial discord, the parties are living separately since the year 2016. The present petition under Section 125 Cr.P.C. was filed on 10.07.2018.
6. No doubt, it has come on record that the respondent-husband is working in BSES Rajdhani Power Limited, Delhi as an Assistant Electrical Fitter and is getting a salary of Rs.62,500/- per month. However, the petitioner has failed to bring to the notice of this Court that respondent-husband is a 100% permanently disabled person as both his legs have been amputated in a Rail accident. He is unable to walk and is confined to a wheelchair.
7. On a Court query, learned counsel for the petitioner-wife admitted the aforesaid fact to be correct. It has also been admitted by learned counsel for the petitioner that both the children are in the care and custody of the respondent-husband.
8. It has further come on record that it was the allegation of the respondent-husband before the learned Family Court that the petitioner-wife is having illicit relationship with one Om Parkash S/o Ram Kuwar. It is also relevant that daughter of the petitioner had also stated in her



evidence that her mother i.e the petitioner was having extra-marital relations with the said Om Parkash. Moreover, the respondent had also filed a petition under Section 9 of the Hindu Marriage Act, 1995, for restitution of conjugal rights, yet the petitioner chose to reside separately. As such too, she is not entitled to any maintenance u/s 125(4) Cr.P.C. Furthermore, salary statement Ex. RW5/A of the respondent for the month of May 2019, shows that his net pay was Rs.42,008/- per month. The respondent-husband in his cross-examination had also stated that he had taken a loan of Rs.10,00,000/- in the year 2018 for which he is paying an EMI of Rs.14,700/- per month. It was in this background, that the impugned final maintenance of Rs.2000/- per month has been granted to the petitioner-wife, with Rs.2100/- towards litigation expenses. In view of the above uncontroverted facts, I find no ground whatsoever is made out to interfere in the impugned order or to enhance the maintenance granted to the petitioner.

9. It may also be pointed out that vide order dated 29.11.2023, a co-ordinate Bench of this Court had directed the petitioner to file copies of the affidavits of assets and liabilities of the parties filed before the learned Family Court, however, the said order has not been complied by the petitioner till date.

10. Furthermore, the petitioner is admittedly an able-bodied person, but on a query, learned counsel for the petitioner has submitted that she has no instructions whether the petitioner is working or not. At this juncture it would be apposite to refer to the judgment of the Hon'ble Karnataka High Court in **Shilpashree J.M. v Gurumanjunatha A.S., 2023 SCC OnLine Kar 36**, wherein it has been held as under:-



“8. The records also disclose that before marriage petitioner No. 1 was working as is evident from her cross-examination. Her cross-examination also reveals that she was residing along with her mother. It is also evident from her admission that, even after her desertion she continued to stay in the rented house along with her mother itself and the allegation does establish that she was not interested to stay with respondent Nos. 2 to 4. It is an admitted fact that at the instance of the present petitioner No. 1, a separate house was taken on rent and now the petitioners i.e., wife and child are residing therein along with her mother, but she was reluctant to stay with her mother-in-law and unmarried sister-in-law. It is an admitted fact that respondent No. 1- husband is running provision stores. Further, he is having responsibility of taking care of his mother and unmarried sister. Admittedly, the petitioner No. 1 was working prior to her marriage and it is asserted that after marriage she resigned the said job. But, there is no explanation as to why she is incapable of working now. She is not supposed to sit idle and seek entire maintenance from her husband and she is also legally bound to make some efforts to meet her livelihood and she can seek only supportive maintenance from her husband”.

(Emphasis added)

11. I am in complete concurrence with the above said view expressed by the Karnataka High Court. There is nothing whatsoever on record to suggest that the petitioner is physically disabled or unable to maintain herself. As such, it is the bounden duty of the petitioner also to make some effort for her own upkeep.

12. In view of what has been discussed here-in-above, I find no ground whatsoever to interfere in the impugned order, in view of the



admitted factual situation that respondent-husband is 100% physically disabled person with both his legs amputated; and that he is also maintaining both the children single-handedly. Learned counsel for the petitioner is unable to dispute or controvert the findings as recorded by the learned Family Court. Even nothing has been produced before this Court to show as to why the abovesaid findings are incorrect or ought to be rejected. It is my considered view, that in such a situation, maintenance as awarded by the learned Family Court does not deserve to be enhanced.

13. Accordingly, I find no ground is made out to exercise the revisional jurisdiction of this Court.

14. **Dismissed.**

16.09.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No