

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

**Criminal Revision (F) No.101 of 2014
Date of Decision:-06.5.2015**

Naresh Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Mr. Suman Jain, Advocate
for the petitioner.

Ms. Neelam Kashyap, Deputy A.G., Haryana.

Mr. Rahul Vats, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

The petitioner has filed the instant revision petition against the order dated 1.11.2012, whereby the learned District Judge, Family Court, Hisar has directed the petitionere-husband to pay a sum of Rs.4000/- per month as maintenance to respondent No.2-wife namely Somlate from the date of filing of the petition.

Briefly stated respondent No.2-wife has filed an application under Section 125 of the Code of Criminal Procedure (for short 'Cr.P.C.') against the husband with an averment that her marriage was solemnized

with the petitioner on 2.12.2007 as per Hindu rites and ceremonies. After marriage, she lived with the petitioner as his legally wedded wife but no issue was born out from their wedlock. She has stated that her parents have spent a sum of Rs.3,00,000/- in the marriage and have given sufficient dowry articles included jewellery, clothes and furniture etc. They also gave gold rings to her parents-in-law, clothes and cash of Rs.1100/- each. The dowry articles were given to the family of the petitioner as *Istridhan*, which is in possession of the petitioner.

In the application, respondent No.2-wife has also submitted that right from the date of marriage the petitioner and his family members started taunting, harassing, maltreating and giving beatings to her on account of bringing less dowry of inferior quality. The father of respondent No.2 made sincere efforts to save the marriage and made to understand the family of the petitioner that he has spent enough amount on the marriage of his daughter as per his capacity. However, the petitioner raised a demand of motor-cycle or Rs.1,00,000/- in cash from respondent No.2 and her father. The father of respondent No.2 showed his inability, which lead to harassment of respondent No.2 and they gave beatings to her and asked her to pressurise her father to fulfil their demands. On 5.4.2008 while considering the future of respondent No.2, her parents has given an amount of Rs.50,000/- to the family of the petitioner as dowry, after raising this amount from one Mahipal resident of Village Noorgarh and other known persons and asked the petitioner and his family to keep his daughter in proper way. While respondent No.2 was pregnant, the petitioner and his parents again raised a demand of motor-cycle and

remaining cash amount of Rs.50,000/- including clothes and other articles. Even the Biradari Panchayat could not yield any result and ultimately on 15.11.2010 respondent No.2 was turned out from her matrimonial house after giving beatings by the petitioner and his family members. She was admitted in Government Hospital, Hisar for injuries caused to her. Respondent No.2 moved an application against the petitioner and his parents before the Deputy Superintendent of Police, Hisar, wherein the petitioner and his parents were called on 15.12.2010. However, the said application was withdrawn with an assurance that they would not raise any demand or give beatings to respondent No.2. Respondent No.2 went to her matrimonial home on 6.1.2011, but again the petitioner and his family members started raising demand of dowry. While facing the beatings and harassment, respondent No.2 filed a complaint against the petitioner and his parents under Section 498-A, 406, 323, 324, 354 and 506 read with Section 34 IPC, which is pending in the Court at Hisar. Thereafter, respondent No.2 has filed an application under Section 125 Cr.P.C. claiming maintenance from the petitioner @ Rs.15,000/- per month as the petitioner is a mechanic of refrigerator and cooler and is running a repair shop and earning about Rs.30,000/- per month.

The application was opposed by the petitioner by filing detailed reply. He has submitted that the marriage was solemnized in a simple manner except exchange of some customary articles and family of the petitioner has never given any beatings to respondent No.2. Respondent No.2 never turned out of her matrimonial house on account of demand of motor-cycle, cash or amount of Rs.1,00,000/-. It is further denied that

father of respondent No.2 gave a sum of Rs.50,000/- to the petitioner. The petitioner is unemployed and is helping his father in small *Kasidakari* in Mahendergarh and is getting Rs.4000/- per month, whereas respondent No.2 is running a beauty parlour besides sewing work at home and is earning around Rs.25,000/- per month. On the basis of the evidence led by the parties including affidavit Ex.PW1/A as furnished by respondent No.2, the learned Family Court vide order dated 1.11.2012 has allowed the application under Section 125 Cr.P.C. and directed the petitioner-husband to pay a sum of Rs.4000/- per month to respondent No.2-wife as maintenance from the date of filing of the petition.

It is, therefore, the order dated 1.11.2012 which is the subject matter of challenge before this Court.

Vide order dated 14.5.2014, this Court while issuing notice of motion in this case for 8.9.2014 has ordered the petitioner to be released on bail subject to the satisfaction of concerned Court and on 13.11.2014, this Court has passed the following order :-

“Learned proxy counsel for the petitioner seeks an adjournment.

The arrears of maintenance is Rs.64,000/-. The petitioner is directed to pay an amount of Rs.10,000/- within one month before the trial Court. In case the said amount is not deposited within one month, the interim order would stand vacated.

To come up on 22.1.2015.”

Thus, while adjourning the case to 22.1.2015, the petitioner was directed to pay an amount of Rs.10,000/- within one month but the petitioner did not deposit the said amount and prayed for adjournment.

Accordingly, the case was adjourned to 21.4.2015 and thereafter despite repeated adjournments to deposit the remaining arrear of maintenance the petitioner did not pay the amount as directed by this Court on 13.11.2014.

On April 22, 2015, this Court passed the following order :-

“Learned counsel for the petitioner seeks time to get instructions regarding payment of outstanding dues on installments basis.

Adjourned to 6.5.2015.”

Still as directed by this Court on 13.11.2014 no payment has been made. Considering the fact that the learned District Judge has directed the petitioner-husband to pay a sum of Rs.4000/- per month as maintenance from the date of filing the petition, no efforts have been made by the petitioner to make further payment to the wife, which prima facie shows that the petitioner is not interested to pay any amount. The marriage between the parties is not in dispute. As held in the case of **Shail Kumar Devi vs. Krishan Bhagwan Pathak @ Krishan B. Pathak 2008 (3) RCR (Criminal) 842** maintenance is a right which accrues to a wife against her husband, the minute the former gets married to later. It is not only a moral obligation, but is also a legal duty cast upon the husband to maintain his wife. The learned District Judge, Family Court has also clearly held that respondent No.2 is legally wedded wife of petitioner and there is not enough sources with respondent No.2-wife to maintain herself. Considering the fact that husband is under legal obligation to maintain his wife he cannot refuse to maintain his wife, particularly when the wife has no independent source of income to maintain and is living at her parental home since 8.1.2011. Furthermore despite having been granted many

opportunities by this Court, the petitioner has not made any efforts to pay the arrears of maintenance as directed by this Court on 13.11.2014, which sufficiently shows that the petitioner is not interested to maintain his wife.

Therefore, I find no illegality in the order dated 1.11.2012 passed by learned District Judge, Family Court, Hisar. Accordingly, the present petition is dismissed.

May 06, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE