

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

CRR (F) No.172 of 2014.
Decided on:-December 14, 2015.

Sanjeev Kumar.

.....Petitioner.

Versus

Sanjana.

.....Respondent.

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

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

Present:- Mr. Deepak Sharma, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the order dated 7.6.2014 passed by learned District Judge, Family Court, Ambala whereby the petitioner has been ordered to pay ₹6,000/- per month as maintenance to the respondent under Section 125 of the Code of Criminal Procedure, 1973.

Briefly stated, respondent Sanjana has filed a petition under Section 125 Cr.PC against the petitioner-husband for claiming maintenance. It is the case of the respondent that marriage between the parties was solemnised on 3.12.2010 according to Hindu rites and ceremonies and a huge amount was spent in the marriage. But from the very inception of

marriage, the behaviour of petitioner-husband and his family members was cruel towards her. They started raising demand of motorcycle and ultimately, she was turned out from the matrimonial home after giving severe beatings. In the Panchayat held on 15.7.2011, the petitioner had assured to keep the respondent with due respect, but again, after about one month, the petitioner and his family members turned out the respondent from the matrimonial home.

The respondent-wife filed a petition under Section 125 Cr.PC and pleaded that she was not having any source of income to maintain herself as she did not possess any movable or immovable property in her name, whereas the petitioner-husband has been serving in a private company 'GATES' at Lalru as mechanical engineer and was drawing salary of ₹20,000/- per month. The respondent-wife, thus, prayed for grant of maintenance amounting to ₹10,000/- per month for her.

The petitioner-husband filed reply to the said petition taking preliminary objections that the petition under Section 125 Cr.PC is not maintainable as the respondent was not a legally wedded wife of the petitioner, because no marriage was performed between them. Further, the respondent was having sufficient source of income to maintain herself as she is a computer expert.

The respondent-wife in support of her claim examined Ajit Pal Singh as PW1, Rajni as PW2 and herself as PW3 and tendered her affidavit

as Ex.PW3/A. She also examined her brother Gagan Mongia as PW4 and closed her evidence. Whereas, the petitioner-husband appeared in the witness box as RW1 and tendered his affidavit as Ex.RW1/A which is similar to the lines of his written statement. He also examined Mam Raj Singh as RW2 who tendered his affidavit as Ex.RW2/A and then, the petitioner-husband closed his evidence.

Learned Family Court vide order dated 7.6.2014 allowed the petition under Section 125 Cr.PC filed by the respondent-wife and she was held entitled to claim maintenance from the petitioner-husband @ ₹6,000/- per month from the date of filing of the litigation besides a sum of ₹5,500/- as litigation expenses. On the point in issue as to whether the parties are legally wedded or not, learned Family Court has observed as under:

*“19. In view of my above discussion, it can be concluded that the petitioner is the legally wedded wife of the respondent. Keeping into account the peculiar facts and circumstances of the case, it cannot be said that petitioner was willfully residing separate from the respondent. Taking into consideration these facts, petitioner cannot be denied to claim maintenance from the respondent and the petitioner held entitled for the same. In **Chaturbhuj Vs. Sita Bai 2008(1) CCC 100(S.C.)** the Hon’ble Supreme Court of India has held that Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It has been further held that the object is to prevent vagrancy and destitution and a speedy remedy for the supply of food, clothing*

and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. Otherwise also, Section 125 Cr.P.C. is a measure of social justice and is especially enacted to protect women and children and to provide them with proper food, clothes and shelter to the deserted wife and children. It give effects to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. Accordingly, petitioner is held entitled to claim maintenance from the respondent.”

Learned counsel for the petitioner has argued that the respondent is not legally wedded wife of the petitioner and he referred to the statement of respondent-wife, who appeared as PW3. The cross-examination of the respondent clearly shows that the marriage was solemnised on 3.12.2010 and the parties had approached the Registrar of Marriage for registration of their marriage. However, the same was cancelled by the Registrar of Marriage due to non-fulfilment of legal requirement. He has further contended that the respondent while appearing into the witness box as PW3 has deposed that thereafter, they performed their marriage in Shiv Mandir at Baldev Nagar, Ambala and the photographs of the marriage which were taken, though were destroyed later on, but the relatives, neighbours and friends attended the marriage. However, in support of her version, she has not examined a single witness except her own brother as PW4, who is an

interested witness.

Learned counsel for the petitioner has further argued that the order dated 7.6.2014 passed by learned Family Court allowing the petition under Section 125 Cr.PC is not sustainable as the petitioner has specifically pleaded that there was no marriage between the parties. The respondent has filed a frivolous case against the petitioner, despite the fact that she has admitted in the cross-examination that she along with the petitioner filed a petition for registration of marriage on 3.12.2010, but the same was cancelled by the Registrar of Marriage due to non-fulfilment of legal requirement. Even the photographs have allegedly been destroyed by the respondent-wife. Learned Family Court while passing the impugned order has failed to examine the cross-examination of the brother of respondent, who himself admitted in his cross-examination that his sister did not place on record any proof of marriage. Learned counsel has further contended that the petitioner is unemployed and is, rather, fully dependent on his parents and since he is not working anywhere, he cannot be put to pay ₹6,000/- per month as maintenance to the respondent.

I have heard learned counsel for the petitioner.

There is no doubt that the provision of Section 125 Cr.PC is a measure of social justice and is aimed at to protect the women and children from starvation. It is a legal right of the wife and children to claim maintenance from the husband when they are unable to maintain themselves.

Learned Family Court has considered the cross-examination of the petitioner wherein he has stated that he has completed his ITI course in Automobiles from Army ITI, Ambala Cantonment, which prima-facie shows that the petitioner must be earning a handsome amount. The income of the petitioner being a technically qualified person cannot be disbelieved as projected by the respondent-wife and, therefore, learned Family Court has rightly awarded maintenance @ ₹6,000/- per month.

A perusal of the impugned order shows that the learned Family Court has come to the conclusion that there was a marriage between the parties. Moreover, the cross-examination of the respondent is very categorically to the extent that initially the parties had moved an application for registration of their marriage before the Registrar of Marriage, but the same was cancelled due to non-fulfilment of legal requirements. Again the parties solemnised their marriage in Shiv Mandir at Baldev Nagar, Ambala for which even photographs were taken, but later on, the same were destroyed. The relatives, neighbours and friends attended the said marriage as detailed in the cross-examination of the respondent-wife. Their signatures were taken in the Register maintained by the Pujari (Priest) of the temple. Further, the petitioner is a well-qualified person and possess a diploma of ITI course in Automobiles from Army ITI, Ambala Cantonment as his father was an Ex-serviceman of Army. Thus, this Court cannot ignore the fact that after possessing such a technical qualification, the petitioner must be earning

a handsome amount. Though no set formula can be laid for fixing the income of the petitioner, however, taking into consideration his qualification and capacity to earn, there is no infirmity in the order dated 7.6.2014 passed by learned Family Court whereby the petitioner has been directed to pay maintenance to the respondent-wife @ ₹6,000/- per month from the date of filing of the petition.

Accordingly, affirming the impugned order, the instant petition, being devoid of any merit, is dismissed.

December 14, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE