

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

CRR(F)-140-2013

Date of decision: 03.08.2017

Puran Chand

...Petitioner

Versus

Neetu and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajesh Bansal, Advocate,
for the petitioner.

Mr. Akashdeep Singh, Amicus curiae
for the respondents.

JAISHREE THAKUR, J. (ORAL)

1. The petitioner herein seeks to challenge the order dated 22.08.2013 passed by the District Judge (Family Court), Sonapat by which interim maintenance application under Section 125 Cr.P.C. was allowed with a direction to pay maintenance pendente lite of ₹ 3,000/- per month to respondent No.1 wife.

2. In brief, the facts as set out in the petition filed by respondent No. 1 under Section 125 Cr.P.C. is that she was legally wedded wife of the petitioner and that their marriage was solemnized as per Hindu rites and ceremonies. Out of this wedlock a daughter was born on 15.06.1993. On account of matrimonial dispute, she was turned out of her matrimonial home when she was pregnant and gave birth to the girl at her parental home. In the complaint, it was also alleged that there was no source of livelihood and the daughter was of the marriageable age. She further submitted that the total

income of the petitioner husband was about ₹ 50,000/- per month. The petition was contested by denying the factum of marriage, alleging that an FIR had been lodged regarding demand of dowry by petitioner in which there was an acquittal. It was also argued that daughter was already married and would not be entitled to any maintenance while further claiming that the petitioner had met with an accident and was now confined to bed. The District Judge (Family Court), Sonipat holding the monthly income of the petitioner husband to be ₹ 7,000/- p.m., directed him to pay interim maintenance of ₹ 3,000/- per month to the wife. Aggrieved against the said order, the instant petition has been filed.

3. Notices were sent in the instant case and despite service, the respondent wife did not put in appearance, resultantly, amicus curiae was appointed to assist this Court in the matter.

4. I have heard learned counsel for the parties and also perused the record of the case.

5. This petition is pending in this Court since 2013 seeking to challenge the order of making payment of interim maintenance that was awarded in favour of the respondent-wife to the extent of ₹ 3,000/- per month. By an interim order dated 30.10.2013, the petitioner herein was directed to pay 50% of the arrears to the respondents which stands deposited. The plea of the petitioner herein is that he is now handicapped and is unable to earn livelihood on account of the fact that he is bed ridden and, therefore, holding that he is capable of earning ₹ 7,000/- per month, is wholly unjustified. It is also argued that the respondent wife is capable of sustaining herself as would be evident from the fact that the petition under

Section 125 Cr.P.C. has been filed after a period of 20 years only in the year 2012.

6. Per contra, learned Amicus appearing on behalf of the respondents submits that he has not been able to contact the respondents and is unaware of her whereabouts.

7. Instead of deciding the matter on merits, this matter is being remanded back since there is no argument forth coming from the respondents despite service. The counsel appointed as amicus for the respondent too is handicapped for lack of instruction. There is a serious dispute regarding the maintainability of the petition as to whether Neetu respondent is the legally wedded wife of the petitioner who would be entitled to claim maintenance. Apart from that the petitioner claims to be handicapped and unable to earn a livelihood to sustain himself. Therefore, in these circumstances it is considered expedient to remand the matter back to the learned Family Court below to decide the petition under Section 125 Cr.P.C. as expeditiously as possible, preferably, within a period of six months.

8. By an interim order dated 30.10.2013, 50% of the maintenance amount had been stayed and the balance 50% as per the counsel stands deposited. Let the matter be heard on its merit without the petitioner being directed to deposit any further amount of maintenance.

9. Needless to say, in case the petition under Section 125 Cr.P.C. is allowed, the petitioner will make the payment accordingly.

10. The parties are directed to appear before the Court below on 4.9.2017.

11. Any observations made herein above, would have no bearing on the merits of the case.

Petition stands disposed off .

03.08.2017

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.