

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

CRR(F)-42-2017 (O&M)

Date of decision: 31.8.2017

Prabhu Dayal

...Petitioner

Versus

Krishna and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Sanchit Punia, Advocate for the petitioner

JITENDRA CHAUHAN, J.

The present revision petition has been filed by the petitioner assailing the judgment dated 28.3.2016, passed by learned District Judge (Family Court), Hisar vide which the petition filed by respondent-wife under Section 125 of the Code of Criminal Procedure was allowed.

Learned counsel for the petitioner submits that the petitioner, aged 50 years, is a casual labourer and has to maintain old aged parents and two sons. The respondent-wife is having valuable moveable and immovable properties. He further submits that married daughter is not entitled for maintenance from her father. Ignoring all these facts, learned trial Court granted maintenance Rs.3000/- per month to the wife- respondent No.1 and Rs.2000/- per month to married daughter-respondent No.2 of the petitioner, which is excessive and against law.

Heard.

It is admitted fact that the daughter of the petitioner is married, but she was allowed maintenance only till the date of her marriage i.e. upto 3.5.2012. Learned counsel for the petitioner is unable to produce any source of income of the respondent-wife. Trial Court while allowing the petition of the respondents vide judgment dated 28.3.2016, in para nos.8 & 9 has observed as under:-

“Law is well settled that the object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can do so to support those who are unable to support themselves and who have moral claim to support. Section 125 of Cr.P.C. gives effect to the fundamental and natural duty of a man to maintain his wife, children and parents when they are unable to maintain themselves. The said section provides a swift and cheap remedy against any person who despite sufficient means neglects or refuses to maintain his wife, minor or major children either legitimate or illegitimate (being a married daughter), his father or mother when they are unable to maintain themselves. The primary object of the section is to prevent starvation and vagrancy. This section is a measure of social justice and is specifically enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. The object is to compel a man to perform the moral obligation which he owes to society in respect of his wife, children and parents so that they are not left beggared and destituted on the scrapheap of society and thereby driven to a life of

vagrancy, immorality and crime for their subsistence. The jurisdiction of the Court is preventive and not remedial and certainly not punitive. The Hon'ble Supreme court has also held in **Shail Kumar Devi Vs. Krishan Bhagwan Pathak @ Krishan B.Pathak 2008(3) RCR (Criminal) 842** that maintenance is a right which accrues to a wife against her husband and minute the former gets married to later. It was further held that it is not only a moral obligation but is also a legal duty cast upon the husband to maintain his wife. Bearing these legal principles in mind, it is to be seen whether the petitioners are entitled to claim maintenance from the respondent who has allegedly refused to maintain them despite being possessed of sufficient means.

9. There is no proof of income of the respondent. Since, the applicant No.1 is also having no source of income. She is a rustic lady and dependent on the respondent. However, petitioner No.2 got married on 3.5.2015 as per marriage card placed on the file. Therefore, she shall be entitled for maintenance only till the date of her marriage i.e. 3.5.2015. The prices of essential commodities have gone very high. Even by doing casual labour work, a labourer can easily earn Rs.10-12,000/- per month. Therefore, I allow this petition and petitioner No.1 is entitled to get Rs.3,000/- per month and petitioner No.2 is entitled to get Rs.2,000/- per month as maintenance. Total Rs.5,000/- per month would be payable by the respondent to the petitioners from the date of filing of petition. However, it is made clear that petitioner No.2 shall be entitled to get the amount from the date

of filing of petition till 3.5.2015 when she got married.”

The petitioner has scant regard for the order passed by the Court as he has not cleared the arrears of maintenance ordered by trial Court and warrants have been issued by the executing court against him. Keeping in view the peculiar facts and circumstances of the case, this court is not inclined to grant any relief to petitioner. Moreover, after passing of impugned order dated 11.06.2013, the petitioner kept mum for a long period and no plausible reasons has come on record to condone the huge delay of 216 days. Keeping in view the peculiar facts and circumstances of the case, this Court finds no merits in the present revision petition as well as in the application for condonation of delay in filing the same and are dismissed as such.

31.8.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No