

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

**CRR(F)-440-2017
Date of decision-31.10.2017**

Manish Tondon

...Petitioner

Vs.

Ankita Bhutani

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Petitioner in person.

JITENDRA CHAUHAN, J. (Oral)

The present revision petition has been filed for setting aside the impugned order dated 09.08.2017 passed by District Judge, (Family Court) Sonipat whereby the petitioner/husband had been directed to pay a sum of ₹5,000/-per month as maintenance to the respondent in the proceedings under Section 125 of the Code of Criminal Procedure, 1973.

Petitioner contends that the learned Court below fell into error while granting maintenance to the respondent-wife to the tune of ₹5,000/- per month. It is asserted that apart from maintaining himself, the petitioner is also saddled with the responsibility of old parents and his brother and sister are also dependent upon him. He further contends that the respondent-wife is not entitled to receive any maintenance or expenses as he is incapacitated on account of various ailments and has also undergone surgery of left foot as he had met with an accident. He has lost his earning capacity. Otherwise also, respondent is well qualified/working person and is also running a coaching centre for the past four years, with enrolment of approximate 38 students. Learned Family Court failed to appreciate that the respondent-wife has

suppressed the material facts about running the coaching institute and erred in dismissing the application under Section 340 Cr.P.C. He further contends that the learned Family Court erred in allowing the second maintenance petition filed by the respondent-wife and failed to take into account the findings given in the interim order dated 10.05.2016 whereby interim maintenance application was dismissed.

I have heard learned counsel for the petitioner and have gone through the case file.

The marriage between the parties was solemnized on 06.03.2011 as per Hindu rites and ceremonies at Sonipat. Allegedly, due to dowry demands and harassment, on 08.12.2011, respondent/wife was constrained to leave the matrimonial home and has been residing at her parental home with her widowed mother. As per the record, the respondent/wife claimed that the petitioner is working as Legal Advisor in Health and Family Welfare Department, New Delhi and earning ₹60,000/- per month.

Admittedly, the respondent is the legally-wedded wife of the petitioner. The petitioner is a practicing Advocate and being a law graduate and able bodied person, is legally and morally liable to maintain his wife. Learned Family Court has rightly observed that the petitioner-husband has failed to bring on record any authentic proof regarding her income and the evidence brought on record by the petitioner in the shape of conversation between the respondent and RW-1 B.M.Pandey, regarding her source of income, does not inspire confidence.

The interim order dated 10.05.2016 whereby interim maintenance application was dismissed, was passed at the initial stage when the parties were yet to lead their evidence. However, the impugned order has been passed after taking into consideration the evidence adduced by both the parties in the right perspective. The findings recorded by the Court below are based on correct appreciation of facts and evidence on record and no fault can be found with the approach of the learned Family Court. The application under Section 340 Cr.P.C filed by the petitioner-husband was also rightly dismissed by the learned Family Court as rules of procedure and evidence are not strictly followed in Family Courts.

It cannot be said that the amount of ₹5,000/- per month is on higher side, especially in the present scenario of high rise in the cost of living. In that view of the matter, the Court below has rightly allowed the maintenance in favour of respondent. There is no illegality or perversity in the impugned order. The petition is accordingly dismissed.

31.10.2017

vanita

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No