

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

**CRR(F)-474-2017 (O&M)
Date of decision: 28.11.2017**

Mandeep Singh

...Petitioner

Versus

Daljeet Kaur & another

...respondents

Present: Mr. Vikram Bali, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. The instant revision petition has been filed seeking to challenge the order dated 11.10.2017, passed by the District Judge, Family Court, Karnal, by which the respondents were allowed maintenance to the tune of Rs. 5,000/- per month, under Section 125 Cr.P.C. and the amount of Rs. 2,000/-, awarded under the Protection of Women from Domestic Violence Act, 2005, was ordered to be adjusted against this amount.

2. In brief, the facts are that respondent No. 1/complainant filed a petition under Section 125 Cr.P.C. seeking maintenance from the petitioner herein. In the complaint, it was stated that a marriage was solemnized between petitioner and her on 27.11.2011 according to Hindu rites and ceremonies and at the time of marriage, a huge sum of Rs. 40 Lakh was spent by her parents. It was alleged that there was harassment meted out to the complainant on account of bringing inadequate dowry. In fact, a *Panchayat* was convened in the month of March, 2012 wherein assurance was given by the family members and the husband of the complainant that she would be kept with love and affection. The parents of the respondent-

complainant gave a sum of Rs. 2 Lakh in order to save her matrimonial life. Out of this wedlock, a daughter was born and on the birth of the female child, there was a demand for a bigger car. Since the demands of dowry could not be fulfilled, she was turned out of her matrimonial home along with the minor child. It was submitted in the complaint filed under section 125 Cr.P.C., that the husband was duty bound to maintain her and the minor child as he was a man of adequate means owning 25 acres of agricultural land and was also running a milk dairy, out of which he was earning a sum of Rs. 2 Lakh per month. The complainant submitted that she did not have adequate means of supporting herself and the minor child. The petition was contested wherein the petitioner husband took the preliminary objection about the maintainability of the complaint as complainant had not come to Court with clean hands. It was submitted that that the complainant had already filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in which she had been allowed maintenance to the tune of Rs. 2,000/- per month. It was argued that the respondent wife had left matrimonial home along with her father and brother after causing injuries to his mother and brother while also submitting that he did not have the means to support her since he was unemployed. The District Judge allowed the petition and awarded a sum of Rs. 5,000/- to be paid to the complainant and the minor child while adjusting the amount of Rs. 2,000/- that was assessed to be paid under the Domestic Violence Act. Aggrieved against the said order, the instant criminal revision petition has been filed.

3. Learned counsel, appearing on behalf of the petitioner, contends that the respondent would not be entitled to any maintenance

under Section 125 Cr.P.C. while submitting that the respondent voluntarily left the matrimonial home along with the minor child after inflicting injuries upon his mother and brother. It is contended that the petitioner herein is unemployed and, therefore, is unable to pay the amount of maintenance as assessed.

4. I have heard learned counsel for the petitioner and have also perused the record of the case and find no merit to interfere in the well reasoned order of the District Judge, Family Court.

5. Section 125 Cr.P.C. has been enacted to ensure that a wife, minor child or old-age parents are maintained and not subjected to vagrancy and destitution. Grant of maintenance to the wife has been perceived as a measure of social Justice by the Courts and the said section falls within the Constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It provides speedy remedy for supply of food, clothing and shelter to the deserted wife while ensuring that the husband fulfils his moral and legal obligation to support his family, be it a minor child, wife or aged parents.

6. The District Judge by taking note of the fact that there was no evidence on the record to support the contention of the complainant respondent that the petitioner was earning a sum of Rs. 2 Lakh per month through the milk dairy or that he was the owner of agricultural land as alleged, held that the earnings of the petitioner at best could be presumed to be that of a labourer working on minimum wages and earning approximately Rs.10,000/- per month. It is on this basis that the petitioner has been directed to pay maintenance to the tune of Rs. 5,000/- to the

respondent-wife and the minor child since it was held that she has no source of income to support herself and the minor child. The amount of Rs. 2,000/- that had been directed to be paid to the respondent under Section 12 of the Domestic Violence Act was to be adjusted against the amount of Rs. 2,500/- ordered to be paid to the complainant herein.

7. Having gone through the impugned order, this Court finds no infirmity in the same. Without any evidence on the record, it can safely be presumed that the petitioner herein, being an able-bodied person, would be capable of earning a minimum of rupees Rs. 10,000/- per month as a daily wager. He is under a moral obligation to support his wife and minor child and it is for this reason that the District Judge has rightly awarded a sum of Rs. 5,000/- to be paid in equal share to both the respondents. Any amount that it is to be paid under the Domestic Violence Act is to be adjusted from the amount of Rs 2,500/- to be paid to the complainant wife under section 125 Cr. P.C.

8. In view of above, this revision petition being devoid of any merit is hereby dismissed.

28.11.2017
Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No