

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

CRR(F) No. 6 of 2017(O&M)

Date of decision: 12.1.2017

Piyush Gupta

....Petitioner

VERSUS

Vashika Bansal and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Gurmohan Singh Bedi, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against order dated 13.10.2016 passed by the District Judge, Family Court, Pathankot whereby the respondents have been allowed maintenance under Section 125 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.').

The Court has awarded maintenance at the rate of Rs.6,000/- per month to the wife and Rs.4,000/- per month to the minor child of the parties w.e.f. 15.02.2014 till 30.09.2016 and at the rate of Rs.7,000/- per month to the wife and Rs.5,000/- per month to the child w.e.f. 01.10.2016 onwards.

The sole submission made by counsel for the petitioner is that the respondents failed to adduce any evidence much less cogent and convincing to form the basis of findings that the petitioner is earning Rs.55,000/- per month. It is further submitted that while deciding the application for grant of interim maintenance, the Court allowed interim maintenance at the rate of Rs.3,000/- per month to the wife and Rs.1,000/- per month to the daughter from the date of application i.e. 15.02.2014. It is

argued with vehemence that as the respondents failed to bring any additional materials on record during the course of evidence with regard to income of the petitioner, there was no reason for the Family Court to allow maintenance more than what was awarded as an interim measure.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

It is pertinent to mention at the outset that on a pointed query raised by the Court with regard to avocation and income of the petitioner, counsel has submitted that earlier the petitioner was running business of sofa material in the shops at Gandhi Market, Ambala Cantt. which were taken on rent from Municipal Corporation, Ambala Cantt. but later the said business has been closed and the petitioner is doing labour work and earning Rs.3,000/- per month.

Perusal of the findings recorded by the Family Court would reveal that the petitioner had admitted that rent receipts of the said three shops issued by the Municipal Corporation, Ambala Cantt are in his name. He refused to disclose as to what is the rent of the shops. He even did not produce on record the rent receipts qua the said shops. There is no tangible explanation by the petitioner that if he is no longer running business in the three shops, how could he afford to pay rental thereof without having any permanent source of income. Plea of the petitioner that he is doing labour job without disclosing nature thereof is quite vague and appears to have been raised in order to deny adequate maintenance to the respondents. As per the settled position in law, a party in possession of the best evidence is liable to produce the same and an adverse inference is to be drawn against him for withholding the same from the Court.

The trial Court has awarded maintenance at the rate of Rs.6,000/- per month to the wife till 30.09.2016 and thereafter Rs.7,000/- per month w.e.f. 01.10.2016. The child has been awarded maintenance at Rs.4,000/- per month till 30.09.2016 and Rs.5,000/- per month w.e.f 01.10.2016. Maintenance awarded by the Court may not be sufficient to meet day to day requirements of the respondents what to talk of providing them housing much less comforts and luxuries of life. A husband has a legal obligation to earn livelihood for his wife who is entitled to enjoy the same amenities of life as she would have been had she been staying in the matrimonial home. Similarly, the petitioner being the father of a girl child is liable to provide for all her needs and ensure that her dreams turn into reality and she does not suffer for want of adequate funds.

As an up-shot of the aforesaid discussion, I do not find any reason to interfere in the impugned order. Accordingly, the petition fails and is dismissed in *limine*.

JANUARY 12, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no