

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision (F) No. 311 of 2015 (O&M)
Date of Decision: 24.8.2018

Neetu and another

.....Petitioners

Versus

Rajender Dhar @ Tinku

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Sunita Nambiar, Advocate
for the petitioners.

None for the respondent.

ANITA CHAUDHRY, J

CRM-38679-2015

Application is allowed for the reasons stated therein.

Delay of 24 days in filing the revision is condoned.

CRR(F)-311-2015

In this revision, the petitioners assail the order dated 21.9.2015 and seek enhancement of maintenance.

Neetu was married to Rajinder in 2007. They have a daughter. She was five years old at the time of filing of petition in 2013. It was claimed that the husband was running a cyber cafe at Alwar and had a furniture showroom and a garment showroom and had income of Rs. 60,000/- per month. Besides this he had given the shops on rent and was receiving rent of Rs. 20,000/- per month.

The husband disputed all these facts and denied that he was

earning Rs. 60,000/- per month or that he was receiving any amount as rent and pleaded that he was earning Rs. 8,000-9,000/- per month from sale of clothes and he had taken a shop on rent.

Both the sides led evidence and the Family Court noted the following :-

“The next question for determination is whether the respondent having sufficient means refused or neglected to maintain the petitioners. As discussed above, petitioner No. 1 has sufficient reasons to live separate from the respondent. It has been claimed by the petitioners that respondent is running a garment shop and earning Rs. 60,000/- per month. He is also receiving rent of Rs. 20,000/- per month. However, to prove the monthly income of the respondent, no documentary proof has been produced on record. Respondent while appearing in the witness box as RW1 admitted that he is running a garment shop. But he claimed that he is earning Rs. 8,000/- to Rs. 9,000/- per month. It is well settled proposition of law that by entering into marriage the husband is bound to maintain his wife and minor children even if he is a professional beggar, insolvent, minor or monk so long as he is able bodied and ekes out his livelihood. Reliance in this regard can be placed on case titled Mamindla Sailoo vs. Mamindla Padma and another 2007(1) RCR (Criminal) 203. Thus, it is concluded that respondent has sufficient means but he has refused to maintain the petitioners.

In view of the above findings, the present petition is allowed with costs. The respondent is directed to pay a sum of Rs. 3500/- per month to petitioners (Rs. 2000/- for petitioner No. 1 and Rs. 1500/- for petitioner No. 2) towards maintenance from the date of filing of petition i.e. 30.7.2013. Counsel fee is assessed as Rs. 2200/-. Memo of costs be prepared. File be consigned to record room, after due compliance.”

Counsel for the petitioners contends that the amount allowed was on the lower side and the husband had kept back his income and the child is school going and even a labourer earns more than what was disclosed and the petitioners were entitled to the same status. Counsel further urges that the husband had led no evidence to show how much rent he was paying and his income would be much more than what was claimed.

Notice was given to the respondent. The counsel had put in appearance on the previous dates but no one appears today.

The marriage between the parties is admitted. There is a child from the marriage who was five years old when the petition was filed. The wife had claimed that the respondent was running a cyber cafe and a furniture and garment showroom and his income was Rs. 60,000/- per month besides rental income to the tune of Rs. 20,000/- per month. The petitioner-wife failed to lead any evidence with respect to the income. The husband failed to produce his account books and did not disclose his income. The trial Court noted that the respondent was able bodied and he had the capacity to earn. It also noted that the respondent had admitted that he was running a garment shop and therefore ordered payment of Rs. 2,000/- per month to the wife and Rs. 1500/- per month to the child from the date of filing of petition.

The respondent had concealed his income. He did not produce his account books. He claimed that he was earning Rs. 8,000-9,000/- per month. He had kept the documents away which could have easily shown his financial position. The minimum wages in 2013 of a labourer would be over Rs. 9,000/- per month. Here the husband is running his business therefore, his income would be more than that. Therefore, considering the

fact that the respondent was earning from a garment shop, the maintenance amount needs to be enhanced. The order passed by the Court below is modified and maintenance of Rs. 3500/- per month is allowed to the wife and Rs. 2,000/- per month to the child from the date of filing of petition.

The petition is partly allowed.

(ANITA CHAUDHRY)
JUDGE

August 24, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No