

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

Crl. Revision No.(F) 53 of 2015(O&M)

Date of Decision: 11.10.2018

Pankaj Kumar

.. Petitioner

Vs.

Reena & Anr.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. S.K. Liberahan, Advocate
for the petitioner.**

**Mr. Sumit Sangwan, Advocate
for the respondents.**

ANITA CHAUDHRY, J.

Challenge has been laid to the order dated 06.02.2015 passed by the Family Court, Bhiwani vide which the petitioner was directed to pay a sum of Rs.3000/- to the wife and Rs.1000/- to the daughter from the date of filing of the petition.

The grievance raised by the petitioner-husband is that the respondent-wife had herself withdrawn from the company of the petitioner and a petition under Section 9 of the Hindu Marriage Act was filed by him on 12.09.2013 which was allowed vide order dated 09.08.2017, still she had refused to join the company of the husband and she was not entitled to any maintenance. According to learned counsel, the allegations of cruelty and demand of dowry were found false and the petitioner and his father and brother who were tried in criminal case were acquitted. Copies of judgments were placed on record. Further, the plea taken by the petitioner is that he was an unskilled labourer and occasionally got work, whereas the

respondent-wife was highly educated lady and working as a teacher and giving tuition to the children and earning more than Rs.25000/- and the Court below has erred in awarding maintenance to the respondents.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

A perusal of impugned order reveals that the relationship between the parties and their separation is not in dispute. The marriage between the parties took place on 11.03.2012 and respondents are residing separately since July 2013. The plight of a lady can be understood from the fact that just over an year of her marriage, she had to leave her matrimonial home alongwith the infant daughter and had to stay at her parents' home. She had deposed that she was given merciless beatings and on two occasions money was paid to the husband. When a bride is given beatings and harassed and humiliated from time to time, then it cannot be expected of her to tolerate in silence. It can be said that the atmosphere was not congenial and that forced the respondents to leave the company of the petitioner. Only because the petitioner and others were acquitted in 498-A IPC case, it cannot be a ground to deny maintenance to the legally wedded wife and the child.

The documents placed on record show that the petitioner had worked under MANREGA for few days during 2010-11 but these were not produced before the Court below. From the registration card pertaining to the year 2010-11 it cannot be presumed that except doing labour for few days, the petitioner remained idle and had not worked. It was admitted in the petition that the petitioner was matriculate. It was not disputed that he was able bodied person. It cannot be believed that he solely remained

dependent on MANREGA.

No proof with regard to educational qualification of respondent No.1 was produced by the petitioner nor it was proved that she was working with some school and imparting tuition. Learned counsel laid stress on the panchayatnama, Annexure P-2 to show that the father of respondent No.1 and her sister, who was married to the brother of the petitioner together had disclosed to them that both his daughters had gone to teach in School and the boys had agreed to live with them at Charkhi Dadri, still respondent No.1 had failed to join the company of the petitioner. This document was not produced before the trial Court. In absence of any documentary proof from the school, only on the basis of bald statement of petitioner, it was rightly held that the respondents did not have sufficient means to maintain themselves. The petitioner was under moral obligation to maintain his wife and the daughter. Taking into account the fact that even a labourer earns more, he was rightly ordered to pay Rs.3000/- and Rs.1000/- per month to the wife and daughter respectively. The amount by no stretch can be said to be excessive in view of the minimum wages prevailing in 2014. No fault could be found with the approach adopted by the Court below.

The petition is dismissed.

October 11, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No