

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

CRR(F)-292-2016 (O&M)

Date of decision: 15.02.2018

Jitender

...Petitioner

Versus

Anita and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sumit Sangwan, Advocate,
for the petitioner.

Mr. Vinod S. Bhardwaj, Advocate,
for the respondents.

Parties in person.

JAISHREE THAKUR, J.

1. This is a revision that has been filed under Section 401 Cr.P.C. seeking to challenge the order dated 06.08.2016, passed by learned District Judge (Family Court), Bhiwani assessing interim maintenance under Section 125 Cr.P.C. payable to the respondent-wife and minor child.

2. In brief, the facts are that a marriage was solemnized between the parties on 30.01.2013 as per Hindu rites and ceremonies, out of which wedlock one male child was born on 15.11.2013. It is alleged that on account of matrimonial differences and after being physically abused by the her husband, under his influence by his family members on account of inadequate dowry she was turned out from her matrimonial home. The

respondent-wife filed an application under Section 125 Cr.P.C. seeking maintenance, which was allowed. The respondent-wife alleged that her husband is serving in CRPF as a Constable and is getting more than ₹ 35,000/- per month as salary and, therefore, she would be entitled to be maintained along with the minor child. The application was contested, in which it was submitted that all allegations for demand of dowry and maltreatment were in fact false and concocted. The respondent-wife could not adjust herself with the family members of the petitioner consisting of his old parents and two unmarried brothers. It is also contended that he was electrocuted by a loose high voltage power electric line and suffered multiple burn injuries, as a result of which he remained admitted at PGIMS Rohtak for almost 01 month and 18 days and the petitioner wife did not visit him during that point of time. It was submitted that in fact wife complainant had left the matrimonial home on account of the fact that she did not want to serve or look after him in that condition. The Family Court assessed the interim maintenance by taking into consideration the income of the petitioner who is working as a Constable with CRPF. This order has been challenged by the husband-petitioner herein.

3. Learned counsel appearing on behalf of the husband -petitioner herein submits that this is a case where the respondent-wife has left the matrimonial home on account of the burn injuries suffered by him as would be evident from the fact that she did not visit him even once during the time he remained in the hospital nor was present to look after him during his convalescence. It is argued that due to electric shock he suffered 60% burn injuries and had to avail of various loans to meet the expenses of his

treatment and apart from that he has his parents and two unmarried brothers to support. It is argued that under Section 125(4) Cr.P.C. in case a wife has voluntarily left the matrimonial home without any sufficient cause, she would not be entitled to any maintenance. However, it is argued that he is ready and willing to maintain the minor child.

4. Per contra, learned counsel appearing on behalf of the respondent-wife contends that she had not deserted the matrimonial home and in fact had been turned out and harassed on account of inadequate dowry.

5. I have heard learned counsel for the parties and have perused the pleadings of the case.

6. The factum of marriage between the parties is not disputed. Section 125 of the Code of Criminal Procedure 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 court clothing shelter to the deserted wife while ensuring that the husband fulfills his moral and legal obligation to support his family be it a minor child, wife or aged parents.

8. The question raised in the case in hand is whether the respondent-wife would be entitled to maintenance on account of the fact that she herself had deserted the matrimonial home which is a question that has yet to be decided by the trial Court on leading evidence, especially in

view of the fact that there is a specific averment in the reply filed that the respondent is ready and willing to keep the respondent-wife as his wife and provide to all necessities. A Section 9 petition under the Hindu Marriage Act is also pending between the parties. It is in this background, keeping in view the income and liabilities of the petitioner, the interim maintenance as awarded by the Family Court is modified to the extent that the maintenance payable to the respondent-wife is hereby reduced from ₹ 5,000/- to ₹ 3,000/- per month and ₹ 2,000/- per month payable to the minor child is maintained. However, this reduction in the interim maintenance is subject to any final decision taken by the Family Court after evidence is adduced regarding the question whether the respondent-wife would be entitled to maintenance under Section 125 Cr.P.C. and the liabilities of the petitioner herein.

9. With the aforesaid modification, the petition stands disposed of while taking note of the fact that a sum of ₹ 10,000/- has been paid as part maintenance in Court to the respondent wife as is evident from the order dated 04.12.2017, and the said amount shall be adjusted towards the arrears of maintenance.

15.02.2018

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.