

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

CRR(F) No.90 of 2016 (O&M)
Date of decision: 22nd November, 2018

Vishal Kaushik

... Petitioner

Versus

Shalini Kaushik

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vijay Pal, Advocate for the petitioner.

Mr. Ajay Prataap Dhankar, Advocate for the respondent.

FATEH DEEP SINGH, J.

The petitioner husband Vishal Kaushik through this invocation by way of criminal revision with the aid of Section 401 Cr.P.C. has laid challenge to judgment dated 05.01.2016 of the Court of learned District Judge (Family Court), Hisar.

Upon hearing Mr. Vijay Pal, Advocate for the petitioner husband; Mr. Ajay Prataap Dhankar, Advocate for the respondent wife and on perusal of the records.

The wife, now respondent Shalini Kaushik filed against the petitioner husband an application under Section 125 Cr.P.C. seeking maintenance. The precise stand of the wife is that the marriage between the couple took place on 28.02.2002 where sufficient dowry articles were given however, the family of the husband was not happy over the same and often used to show their annoyance over it. The couple was bestowed

with two sons Maink Kaushik and Krish Kaushik on 30.10.2002 and 18.03.2005 respectively. The main grouse of the wife was that at the time of inception of the marriage the family of the husband had represented that Vishal Kaushik was a doctor with BAMS degree and running his own clinic when it actually transpired subsequent to marriage that he was running a Gym-cum-Slimming centre and Beauty Parlour. On account of matrimonial disaccord the wife claims that she was physically abused and maltreated, as the husband used to send her threatening and indecent messages on mobile phone and in spite of having confessed his guilt before the Panchayat the husband did not desist from doing so. It is claimed that even intervention of her family did not set the things right and ultimately she was forced to renounce her matrimonial home on 19.07.2013. An FIR too was got registered against the husband and in-laws on account of this matrimonial dispute. The wife claimed that the husband be directed to pay Rs.40,000/- in lumpsum as maintenance per month and Rs.21,000/- as litigation expenses.

The husband had rebutted the claim of the wife by taking objections that there was suppression of material facts and the wife was quarrelsome, arrogant and cruel and she refused to live in the joint family. It is claimed by the husband that since the birth of their elder son they had shifted to Gurugram where they resided together till 20.10.2011 and thus, denied the allegations of the wife over physical abuse and

mental torture. The each and every averment of the wife casting aspersion over the conduct of the husband and his parents was refuted, and the husband denied that he was having a flourishing business and on the other hand claimed to be a sick and infirm alleging that the wife was professionally qualified and working as a teacher besides giving tuitions and thus, was self-sufficient.

Upon usual adoption of procedure, the wife examined herself as PW1 and reiterated her case proving documents Ex.P1 to Ex.P4. The husband testified as RW1 and after tendering documents Ex.R1, Ex.R2, Mark A to Mark S, closed the evidence. Consequent thereupon, the Court below through impugned orders awarded Rs.10,000/- per month as maintenance to the wife. The same is subject matter of challenge before this Court.

Appreciating the submissions, it is by no means displaced by the husband, the claim of the wife that he was running a business and that he was earning Rs.1.00 lac per month from his business activities including real estate dealings and agricultural income from 100 acres of agricultural land in village Kesali, District Sagar (Madhya Pradesh). To the specific query of the Court, learned counsel for the petitioner could not refute that the income tax computations detailed in documents Ex.P2 and Ex.P4 are reflective of this fact. There is nothing suggestive proved by the husband that he is medically infirm or unable to earn and rather

accepts the fact that the father of the husband is a practicing Advocate and that the family owns agricultural land in Madhya Pradesh besides other immovable property in Faridabad and Gurugram, the well known metropolitan cities of State of Haryana.

Learned counsel for the revisionist, to the submissions of learned counsel for the wife could not bring to the notice of this Court any tangible, legal, acceptable evidence to show that the wife was gainfully employed. The husband owes an obligation towards the dependent wife to provide necessary maintenance for her upkeep commensurate with the economic status of the husband. It is not the case of the husband that he is to support his aged parents or unmarried sister or obligations of same nature. The mere fact that the husband claims that he is spending money on the education of his two sons cannot be a ground to deny the wife her legitimate right to maintenance. It is the pious obligation of the father to look after and nurture his children who do not have independent source of income. The Court below has given a well reasoned judgment as to the immovable properties, the businesses of the husband's family are by no means displaced and thus, is reflective of the family's status in society. Learned counsel for the petitioner could not bring about any convincing arguments to show by what means the wife is not entitled to maintenance or is entitled to it on the lower side than what has been granted by the Court below. In the light of what has been

detailed and discussed above from the discussions of the two sides, this Court cannot come to any conclusion that the impugned judgment suffers from any illegality, perversity or is not otherwise sustainable in the eyes of law. The impugned judgment needs to be upheld. There being no merit in the present revision petition, the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

November 22, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No