

CRR(F) No. 50 of 2017 (O&M)

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

CRR(F) No. 50 of 2017 (O&M)

Date of decision : 03.04.2018

Amit Bhadana

.....Petitioner(s)

Versus

Smt. Akanksha Singh Bhadana and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Petitioner in person with
Mr. Sanjay Kaushal, Senior Advocate with
Mr. Nipun Vashisht, Advocate
for the petitioner.

Respondent no.1 in person with
Ms. Nupur Chaudhry, Advocate.

ANITA CHAUDHRY, J.

This revision is directed against the order dated 04.01.2017, passed by the Family Court, Faridabad whereby the petitioner has been directed to pay Rs.2 lacs per month as interim maintenance to the wife (respondent no.1) and Rs.50,000/- per month each to the two children (respondents no.2 & 3).

Some facts are essential. Respondent no.1 was married to the petitioner in April 2003. Two children were born to the wedlock. The wife instituted a petition under Section 125 Cr.P.C. in February 2016

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seeking maintenance for herself and for her two children. She also gave the details of the properties owned by the husband and details of his cars. It was pleaded that the husband was into real estate business and was earning more than Rs.1 crore per month apart from rental and agricultural income. It was pleaded that the educational expense of each child was Rs.25,000/- per month. She had also pleaded that she required a medical attendant and a driver as she was not well. It was pleaded that considering the lifestyle which they were used to, they were entitled to Rs.5 lacs per month as maintenance.

The petitioner had also arrayed the mother-in-law. The respondent took an objection. It was pleaded that his mother had been impleaded only to harass them. It was pleaded that the wife used to go to the club and late night parties and she was busy on the mobile phone and he had come to know that she had been talking to a particular person (name withheld). He also found some conversations on Facebook with the strangers and some photographs which were objectionable and since the wife was living a adulterous life, he filed a divorce petition and had placed all the material he could gather. It was pleaded that he was paying all the expenses of the wife and children which were around Rs.20,000/- per month. It was also pleaded that the wife was living in the house owned by his mother, which was in a posh area in Faridabad. It was denied that he had neglected the wife or the children. It was also pleaded that he was paying the electricity bills. It was pleaded that two

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children were born in 2007 and 2009. It was denied that he had an income of over Rs.1 crore per annum. It was pleaded that his income was a little over Rs.1 lac per month and he had been filing his income-tax returns. It was also pleaded that he had taken a mediclaim policy for all of them and was paying the annual premium @ Rs.29,000/-. It was pleaded that his father had died and he had five sisters and he is the only brother and he had to perform all the rituals. It was pleaded that his mother was old and was suffering from life threatening disease. It was denied that he was getting rent of Rs.1.5 lacs per month from the property in Sector 16-A, Faridabad. It was pleaded that he was getting rent of Rs.27,000/- per month which was shown in the income-tax returns. It was denied that he had any FDR. It was also pleaded that the petitioner had taken false pleas and he was not the owner of the Innova car.

The Family Court allowed the application for interim maintenance holding that the husband was maintaining a high standard of living and had six luxury cars including BMW and had visited Macau twice and it was not possible to maintain luxury cars on a income of just Rs.1 lac per month. It assumed the income to be Rs.7 to 10 lacs per month and allowed Rs.2 lacs per month as maintenance to the wife and Rs.50,000/- per month each to the two daughters from the date of application besides allowing some amount as litigation expenses.

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The petitioner offered to settle and secure the future of his two daughters and offered to transfer agricultural land in favour of the daughters. The matter was referred for mediation and the petitioner had offered to pay Rs.1.3 crores towards full and final settlement to secure the future of his daughters and provide one house to the respondents. In the same order, the co-ordinate Bench had directed the petitioner to pay Rs.5 lacs towards the educational fees of the daughters and the execution proceedings were ordered to be stayed. The petitioner repeated the same offer on the subsequent dates but the respondent did not agree to the offer.

I have heard the counsel of both the sides.

The submission on behalf of the petitioner primarily is that the Family Court had assumed wrong income and at the interim stage and higher maintenance had been awarded. It was urged that the respondent was living in the house owned by his mother though the children were now studying in Gazhiabad and not in Faridabad. It was urged that the house had been locked-up and the respondents are not residing in that house. It was urged that the Family Court had ignored the fact that the respondent was living an adulterous life and before the Court below they had placed on record the e-mails. The counsel also submits that the respondent is a qualified Architect. During the course of the arguments, the petitioner had also referred to some photographs, which were placed before the Court below. The submission on behalf of the petitioner was

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that he was not running away from the responsibility of the daughters and was ready to pay the school fees and he had been paying the school fees regularly and he was also paying the premium of mediclaim policy and the monthly income was a little over Rs.1 lac and the amount allowed was on the higher side. It was urged that the wife was highly qualified and is capable of earning and cannot sit idle and insist on maintenance for herself and the petitioner can shoulder the responsibility of the daughters. It was urged that the cars had been purchased from the compensation received after the acquisition of land and the respondents have been unable to show that he had a higher income than what was reflected in the income tax returns and the Court below has ordered a higher maintenance solely on the ground that he had some high-end cars. Reliance was placed upon *Monu Songra Vs. Pinki 2016(4) RCR (Criminal) 804*.

On the other hand, the submission is that the photographs itself do not prove adultery and the pictures are with her old schoolmates and the husband was present on those occasions and one picture is with one of her cousins. It was urged that the monthly expenditure only on the school fees is over Rs.14,000/- per month per child and there are several other expenses besides school fees and they were entitled to the same standard of living as they were used to when the family was together. It was urged that the petitioner did not pay the electricity charges and therefore, the electricity connection was disconnected. It was urged that

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the petitioner had also stopped paying the premium for the mediclaim policy and respondent no.1 is on continuous treatment and she had suffered convulsions in 2015 and is under medication and the amount allowed is not on the higher side and they would be leading evidence to show that the petitioner has higher income.

Both the sides have placed on record some documents which are taken on record.

The relationship is not disputed. The two children born from the wedlock were at the relevant point studying in Manav Rachna School in Faridabad, one of the upscale schools. Presently the children are not studying in that school. Receipts which were shown at the time of the arguments reveal that monthly amount deposited in school was over Rs.14,000/- per month. The children are in the age group of 9 & 10 years. The husband has made allegations of adultery. He had placed some photographs before the lower Court as well as in this Court but those are issues which cannot be taken note of and have to be left to be decided by the trial Court. Though, the income tax returns show income of Rs.13 lacs per annum but at the same time I find that the petitioner has a number of properties. The petitioner is also maintaining a number of cars and there could be some additional income, which the respondents have not been able to gather.

The wife is highly educated but is not working, which is unfortunate. She is insisting for maintenance for herself as well and making no efforts to earn for herself.

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The amount allowed by the trial Court is on the higher side as at this point there is no evidence of higher income. Considering the available material, I would allow Rs.25,000/- per month for each child and Rs.40,000/- per month for the wife as interim maintenance. The order passed by the Court below is thus modified.

The petitioner would clear the arrears within three months. The amount which has already been paid/deposited would be adjusted. The trial Court would endeavour to decide the petition as expeditiously as it can.

The petition is partly allowed.

03.04.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No