

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

CRR(F) No.120 of 2018 (O&M)
Date of Decision: March 19, 2018

Rajiv

...Petitioner

Versus

Arnav

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K.S. Dhanora, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

This is a criminal revision that has been filed seeking to challenge the order dated 04.12.2017 passed by District Judge, Addl. Family Court at Karnal, allowing maintenance to the minor child @ Rs.5000/- per month.

2. Brief facts are that, the petitioner solemnized a marriage with Sonia daughter of late Mohinder Singh and out of this wedlock, the respondent-minor was born on 25.03.2013. On account of matrimonial differences and demand of dowry, the parties eventually started residing separately and it was in her parental home that she gave birth to the minor child. A Panchayat was convened and thereafter, Sonia along with the minor child returned to her matrimonial home, however, since there was no change in the behaviour of the petitioner, she again started residing separately.

Ultimately, Sonia wife of the petitioner filed a petition for grant of maintenance for herself and the minor child along with litigation expenses. The matter was contested and a stand was taken that Sonia was getting a salary of Rs.7900/- per month, which was enough for sustenance of herself and the minor child. It was also submitted that it was Sonia, who had left the matrimonial home, after quarelling on petty issues. In fact, a petition under Section 13 of the Hindu Marriage Act had been filed, which is still pending. The evidence was led in the said matter and it was noticed that Sonia was working in UHBVNL as a Data Operator on contractual basis and earning a gross salary of Rs.16,425/- per month and after deductions, her net salary would be Rs.14,338/- per month. The Family Court, while interpreting Section 125 Cr.P.C., came to the conclusion that the said provision is applicable to those persons, who are unable to maintain themselves. Reliance was placed upon judgments cited as *Monu Songra vs. Pinki*, 2016(4) RCR (Criminal) 804 and *Bhagwan Dutt vs. Kamla Devi*, 1975 AIR (SC) 83, to hold that right of a wife to claim maintenance is not absolute and the court is competent to look into her separate income or means of her support. Holding the petitioner not to be a destitute lady and having an independent income, relief of maintenance was denied to the complainant-wife Sonia. However, taking into account the gross salary of Rs.35,652/- of the petitioner and the take home salary of Rs.25,096/-, the Family Court came to hold that the maintenance to the tune of Rs.5000/- per month would be paid to the minor child from the date of filing of the petition. Aggrieved, the instant criminal revision has been filed.

3. Learned counsel for the petitioner submits that the amount of

maintenance, that has been assessed, is on the higher side and prays for reduction of the same.

4. I have heard learned counsel for the petitioner and perused the impugned order as well.

5. Section 125 Cr.P.C. contains summary and quick remedy for securing some reasonable sum by way of maintenance, thereby to protect the destitute wife/minor child/old age parents against starvation. These provisions are intended to fulfill a social purpose. By providing a simple speedy but limited relief, the legislation seeks to ensure that the neglected wife and children are not left destitute and thereby driven to a life of vagrancy, immorality and crime for their substance.

6. The Family Court rightly came to the conclusion that Sonia, the wife of the petitioner, would not be entitled to claim support under Section 125 Cr.P.C. on the ground that she has an independent source of income, however while taking note of the fact that the petitioner herein has a statutory and moral duty to maintain his minor child, who is in the care and custody of her mother, held that a sum of Rs.5000/- should be paid as maintenance to the respondent-minor child and in the opinion of the court, there is no infirmity in the impugned order. Sonia, wife of the petitioner herein is having take home salary of Rs.14,338/- whereas, the take home salary of the petitioner is Rs.25,096/-. There is a major difference between the carry home salary of both the parties. It is also not disputed that the petitioner does not have any other responsibility whereas, Sonia has to maintain herself and the minor child, out of her salary of Rs.14,338/-. Under these circumstances, no ground is made out to interfere with the

impugned order so passed.

7. In view of the above, the criminal revision in hand is hereby dismissed, being devoid of any merits.

March 19, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No