

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

CRR(F) No.3 of 2018 (O&M)
Date of decision: 21st November, 2018

Amit Hasija

... Petitioner

Versus

Shikha Hasija & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.K. Tripathi, Advocate for the petitioner.

Mr. Akshay Jindal, Advocate for the respondents.

FATEH DEEP SINGH, J.

This is a criminal revision by disgruntled husband petitioner Amit Hasija whereby he has sought to challenge judgment dated 30.11.2017 of the Court of learned Principal District Judge, Family Court Gurugram. The then petitioner wife Shikha Hasija and her minor son Kunsh had filed an application under Section 125 Cr.P.C. seeking maintenance from the respondent and the Court vide impugned findings allowed the same directing the respondent husband to pay a sum of Rs.7,500/- per month to each of the two petitioners from the date of filing of the petition i.e. 24.12.2014. The same is subject matter of challenge before this Court.

Upon hearing Mr. S.K. Tripathi, Advocate for the petitioner, Mr.Akshay Jindal, Advocate on behalf of the respondents and on perusal of the records. It is a revision petition by the husband under the

provisions of Section 401 Cr.P.C. whereby the Court has a very limited scope and is to adjudge as to the very legality and propriety of an order or a finding. During the course of submissions of the two sides, it is not disputed inter-se that marriage between the two took place on 27.01.2012, out of which a son was born on 25.01.2013. It is the claim of the wife that there has been a matrimonial dispute and it has become unsafe for her and her child to live in the matrimonial home and carry on with her obligations and was forced to file a criminal complaint before the Women Cell and on account of this matrimonial dispute, written compromise was effected on 06.06.2014 whereby the husband and his father had undertaken to deposit Rs.15,000/- per month by 5th of every English calendar month in the account of the wife and the son and to return the entire *Stridhan*, but the same was never given effect to leading to the filing of present proceedings. It is claim of the wife that she does not have any source of earnings and is totally dependent on the husband who has refused to maintain them. It is alleged by the wife that the husband is running a business of sale and supply of optical contact lenses by way of firm Binni Opticals in HUDA Market, Gurgaon and earning Rs.2.00 lacs per month besides having various properties from where they have monthly rental income of Rs.45,000/-. However, the husband in his stand has denied that any *Stridhan* was ever given or taken and it was a simple marriage and rather has tried to turn the tables upon the family of the wife, submitting that they were greedy persons and had

demanded Rs.5.00 lacs to enable them to purchase a flat and alleged that the wife had on her own abandoned her matrimonial home along with the child. The husband claims that he is working in a small Industrial Unit at Jamnagar, Ahmadabad and does not have any business or income as claimed by the wife. It was thereafter, the impugned findings were recorded.

During the course of submissions, learned counsel for the petitioner has sought to allay the claim that he was running a business or had income as claimed by the wife and has sought to place reliance on employment/earning certificate (Ex.R1 to Ex.R14) and which is sought to be controverted with much vehemence by learned counsel for the respondents who has argued that even the Court below has discarded these documents to be for a motivated cause.

Appreciating the submissions, one cannot lose sight of the fact that it is a bounden duty of a husband to maintain the desolate wife without any source of income and a minor child born out of the wedlock. Apparently, the petitioner husband is an able bodied person and it is not disputed by the learned counsel for the petitioner that the family is running a business in Gurgaon, so the distinction that the learned counsel for the petitioner has sought to raise that it is the business of the father and not of the son, does not impress the Court much. Firstly, on the grounds that it is a family business and therefore, the petitioner husband at the time of filing of this application being in the family, invariably

leads to irrevocable conclusion that he is a part of this business conglomerate. The Court below, after fair balancing of the relevant factors, has drawn the conclusion that after the dispute the husband has tried to reflect his economic hardship, and has adversely commented on the documents of earnings of the husband holding that he was working as an Assistant Accountant in an Industrial Unit and has observed that the husband in his testimony accepts that he has never seen the balance sheets of the Company nor had interacted with any employee of the Company, nor could he disclose the name of the Senior Accountant under whom he was claimed to be working much less what he was contributing towards the ESI and PF. The Court has in its observations held that the salary slips were manipulated and did not reflect the actual state of affairs and has discarded these documents. More so, the other corroborative feature is well established from the fact that during the compromise the husband and his father had agreed to pay Rs.15,000/- per month to the wife and the son, and therefore is in itself suggestive that the husband and his father were joint in business and had sufficient income to pay such an amount and therefore, was rightly held to be a strong indicator of their economic state. The provisions of Section 125 Cr.P.C. are welfare in nature where stricter principles of Evidence Act are not to be applied and has to be adjudged on the basis of well enshrined judicial principles to further the cause of justice. Learned counsel for the petitioner could not controvert the submissions of learned counsel for the respondent or by

what means the impugned findings suffer from any illegality or perversity. In the light of what has been detailed and discussed above, there is no merit in the instant petition and the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

November 21, 2018
rps

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