

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Revision (F) No.123 of 2019 (O&M)

Date of Decision: 06.03.2019

Dinesh

...Petitioner(s)

Versus

Babita @ Natasha & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Shashi Kumar Yadav, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

The petitioner-husband has filed the present revision petition impugning the order dated 18.12.2018 passed by learned Additional Principal Judge, Family Court, Faridabad, whereby, on a petition filed by the respondents, seeking interim maintenance, learned Family Court has awarded interim maintenance of Rs.3,500/- per month and Rs.1,500/- per month to respondent no.1-wife and respondent no.2-minor son, respectively.

Learned counsel for the petitioner has argued that the marriage between the petitioner and respondent no.1 was solemnised on 18.04.2012 and out of this wedlock, respondent no.2 - Hardik @ Dabu was born. However, there being matrimonial discord between the parties, they are living separately, but the learned Family Court has committed a legal error

in granting the aforesaid interim maintenance to the respondents, observing that the petitioner-husband is an able-bodied person and even if he is working as a labourer, he can earn a decent amount so as to pay the maintenance to the respondents. Learned counsel has further submitted that the petitioner has taken treatment from many hospitals for the last three years including AIIMS Hospital, Delhi and Sir Ganga Ram Kolmet Hospital, Delhi and has spent a huge amount of money on his treatment. He has even been operated upon five times. His major operation was conducted in Sir Ganga Ram Kolmet Hospital, Delhi on 11.05.2018 for Distal Pancreatico-splenectomy with feeding jejunostomy. He has referred to the medical record and discharge summary attached with this petition as Annexure P-1.

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

The application for maintenance has been filed by the respondents with the averments that respondent no.1 was married with petitioner but was treated with cruelty to meet the demands of dowry. On account of non-fulfillment of their demand, she was given merciless beatings. The respondents have no independent source of income, whereas the petitioner-husband is working with a Chartered Accountant and getting salary of Rs.40,000/- per month apart from having rental income and thus, his total earning comes to Rs.50,000/- per month.

Admittedly, interim maintenance of Rs.3,500/- per month and Rs.1,500/- per month has been awarded to respondent no.1-wife and respondent no.2-minor son, respectively. The plea on behalf of the

petitioner that he is getting treatment from many hospitals is of no relevance, at this stage, particularly when the medical record was never before the Family Court at the time of deciding the application for interim maintenance. Even otherwise, the respondents are wife and son of the petitioner. No such material has been brought on record to substantiate the fact that the respondents are earning. Moreover, the awarded maintenance is interim in nature.

Therefore, no inference is warranted in the impugned order passed by the Family Court.

Accordingly, the present revision petition is dismissed.

March 06, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No