

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

CRM-M-9928 of 2019.
Decided on:- March 05, 2019.

Surender Ahuja.

.....Petitioner.

Versus

Poonam and another

.....Respondents.

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

Present:- Mr. Rahul Jaswal, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner-husband has filed present petition under Section 482 Cr.PC for setting aside the order dated 11.09.2018 passed by learned Judicial Magistrate 1st Class, Panipat, whereby in a petition under Section 125 Cr.PC filed by the respondents, who are wife and minor son of the petitioner, learned Magistrate has granted interim maintenance to the tune of Rs.8,000/- per month to respondent No.1-wife and Rs.3,000/- per month to respondent No.2-minor son i.e. total Rs.11,000/- per month from the date of application.

Challenge has also been laid to the judgment dated 22.01.2019 passed by learned Additional Sessions Judge, Panipat, whereby the criminal revision filed by the petitioner-husband against the order dated 11.09.2018 passed by learned Magistrate, was partly allowed and the petitioner-husband

was directed to pay interim maintenance of Rs.6,000/- per month to respondent No.1-wife and Rs.2,000/- per month to respondent No.2-minor son.

Briefly stated, the respondents have filed a petition under Section 125 Cr.PC before the trial Court for grant of maintenance against the petitioner-husband. As per the petition, the marriage between the petitioner and respondent No.1 was solemnized on 20.01.2009 and out of this wedlock, a son Bhavishya (respondent No.2 herein) was born on 25.12.2011. The petitioner and his family members were not happy with the dowry brought by respondent No.1 and used to taunt her for not bringing sufficient dowry. The petitioner tried to turn her out of the matrimonial home by levelling false allegations upon her and her parents and she was compelled to leave her matrimonial home in December, 2013. She remained with her parents for six months and thereafter, she again joined the company of the petitioner due to intervention of her parents and other respectable persons of the family.

After the death of Subhash Ahuja, father-in-law of respondent No.1 on 15.08.2016, the attitude of the petitioner and his mother turned cruel towards respondent No.1. The petitioner neglected respondent No.1 and refused to maintain the respondents. Respondent No.1 is a household lady and is living with respondent No.2-minor son and she is fully dependent at the mercy of her parents. There is no source of income to her, whereas the petitioner-husband is well-built person having flourishing business of departmental store under the name and style of Ahuja Departmental Store along with PG income and other shops and is earning Rs.50,000/- per month

from his departmental store and Rs.20,000/- per month from the rent of first floor of the shared house.

Vide impugned order dated 11.09.2018, learned Magistrate has granted interim maintenance to the tune of Rs.8,000/- per month to respondent No.1-wife and Rs.3,000/- per month to respondent No.2-minor son i.e. total Rs.11,000/- per month from the date of application.

The aforesaid order dated 11.09.2018 passed by learned Magistrate was challenged by the petitioner-husband by way of criminal revision. However, the revisionary Court vide impugned judgment dated 22.01.2019 has partly allowed the petition and the petitioner-husband was directed to pay interim maintenance of Rs.6,000/- per month to respondent No.1-wife and Rs.2,000/- per month to respondent No.2-minor son.

It is in these circumstances, the petitioner-husband has filed the present petition.

Learned counsel for the petitioner has argued that the petitioner is an unemployed, unskilled and is the only son of his parents and is, in fact, a victim at the hands of his estranged wife. Respondent No.1-wife, by misusing the process of law, has not only falsely implicated the petitioner and his entire family members in a case bearing FIR No.33 dated 10.01.2018 under Sections 498-A, 506 and 323 IPC registered at Police Station Chandni Bagh, Panipat, but she has also instituted the petition under Section 125 Cr.PC claiming maintenance of Rs.40,000/- per month. The petition filed by respondent-wife under Section 125 Cr.PC does reflect that she along with minor son is staying

in the same house with the petitioner, but still she has claimed maintenance from the petitioner with concocted facts. The impugned orders passed by the Courts below are based on presumptions and assumptions by considering the income of the petitioner between Rs.40,000/- to Rs.50,000/- per month without there being any evidence. The petitioner comes in unskilled category and even an skilled labourer cannot earn more than Rs.18,000/- per month. The income of the petitioner is not in tune with the income so projected by the respondents and, therefore, without there being any proof of income, the maintenance cannot be awarded to the respondents.

I have heard learned counsel for the petitioner.

The maintenance awarded by the Courts below is interim in nature. The interim maintenance of Rs.11,000/- per month i.e. Rs.8,000/- per month to respondent No.1-wife and Rs.3,000/- per month to respondent No.2-minor son granted by learned Magistrate has already been interfered with by the revisionary Court and the aforesaid maintenance has been reduced to Rs.8,000/- per month (Rs.6,000/- per month to respondent No.1 and Rs.2,000/- per month to respondent No.2), which is a substantial reduction.

No such evidence has been brought on record by the petitioner-husband which may justify interference with the impugned judgment dated 22.01.2019 passed by the revisionary Court. Considering the price index and the prevalent cost of living, this Court finds that the interim maintenance awarded by the revisionary Court is not on higher side.

Therefore, this Court finds that there is no merit in the present petition and the same is accordingly, dismissed.

March 05, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No