

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

CRR (F) No.265 of 2019.

Decided on:- May 02, 2019.

Bijender.

.....Petitioner.

Versus

Tapasya and others

.....Respondents.

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

Present:- Mr. Anshuman Dalal, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present criminal revision against the order dated 11.02.2019 passed by learned Principal Judge, Family Court, Rohtak, whereby on an application filed by the respondents seeking interim maintenance during pendency of the petition under Section 125 Cr.P.C. seeking maintenance, the family Court has awarded interim maintenance of Rs.3,000/- per month each to respondents No.2 and 3, namely, Deepanshi (minor daughter) and Priyam (minor son). Since respondent No.1-wife was awarded maintenance @ Rs.3,000/- per month in a separate proceeding under Section 24 of the Hindu Marriage Act, 1955, this amount was found sufficient by the family Court. It was left at the liberty of respondent No.1-wife to claim maintenance either under this petition or in the proceeding under Section 24 of the Hindu Marriage Act, 1955.

Briefly stated, the respondents, who are the wife, minor daughter and minor son respectively of the petitioners, had filed a petition under Section 125 Cr.P.C. before the family Court. While considering the

application for interim maintenance, the family Court awarded maintenance as indicated above. However, the relevant observations as mentioned in paragraph No.5 of the family Court read as under:

“Considering the fact that the respondent is a trained tailor, he is expected to earn at least the minimum wages. An amount of Rs.3,000/- per month for petitioner No.1 has been fixed in an application under Section 24 of H.M. Act. Considering the said amount to be sufficient for the maintenance of the petitioner No.1, the same amount is fixed as maintenance in this case. However, petitioner No.1 is at liberty to claim the said amount of maintenance either in this petition or in the application under Section 24 of H.M. Act referred above. Respondent is further directed to make payment of Rs.3,000/- per month each i.e. Rs.6,000/- per month to petitioners No.2 and 3 from the date of filing of the petitioner. With these observations, the present application stands disposed of.”

Learned counsel for the petitioner has argued that the petitioner is a tailor by profession and is 40% permanently disabled due to polio in his left leg. Therefore, he is not able to perform his daily chores. Earlier, he was working as a tailor with RS International and was drawing salary of Rs.9,750/- per month from 01.04.2016 to 31.07.2017. But now, he is employed as tailor with Gori Tailor and is getting a salary of Rs.6,500/- per month.

He has further argued that the petitioner along with respondent No.1 had started a boutique in the name and style of Bani Thani Boutique. However, the petitioner had been thrown out by respondent No.1 from the said boutique and she is earning around Rs.50,000/- per month. He has prayed

that considering the financial condition of the petitioner, the awarded maintenance be modified and instead of awarding interim maintenance @ Rs.3,000/- per month each to respondents No.2 and 3, the interim maintenance @ Rs.1,500/- per month each be granted to them.

I have heard learned counsel for the petitioner.

Considering the fact that the respondents are the wife, minor daughter and minor son of the petitioner, the awarded maintenance is not on higher side. Moreover, the maintenance is interim in nature. The petitioner is a skilled/technical man working as a tailor. Initially, he was working as a tailor with RS International and was drawing a salary of Rs.9,750/- per month. Therefore, the argument of learned counsel for the petitioner that his salary has gone down to Rs.6,500/- per month cannot be accepted as convincing as due to passage of time and experience, the salary of a skilled/technical man and that too of a tailor is likely to be increased instead of lowering down. Thus, no interference is warranted with the impugned order dated 11.02.2019 passed by the family Court.

Accordingly, affirming the impugned order dated 11.02.2019 passed by the Principal Judge, Family Court, Rohtak, present criminal revision, being devoid of any merit, is dismissed.

May 02, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No