

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

CRR (F) No.408 of 2019.

Decided on:- July 09, 2019.

Kuldeep.

.....Petitioner.

Versus

Aarti.

.....Respondent.

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

Present:- Mr. Deepak Vashishth, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present criminal revision against the order dated 03.05.2019 passed by learned Principal Judge, Family Court, Jind, whereby on an application filed by the respondent-wife seeking interim maintenance in the petition under Section 125 Cr.P.C., the family Court has awarded interim maintenance @ Rs.3500/- per month with effect from the date of filing of the petition till its final disposal.

Learned counsel for the petitioner-husband has argued that vide impugned order dated 03.05.2019, the family Court has awarded maintenance @ Rs.3500/- per month to the respondent-wife without appreciating the facts and circumstances of the case. The petitioner is a disabled person and is not capable enough to do any work. While referring to the disability certificate dated 03.08.2016 issued by the Medical Superintendent, General Hospital, Jind, learned counsel has contended that the petitioner has 70% permanent disability. He is getting a meagre amount of Rs.2000/- per month as

handicapped pension and there is no other source of income available to him. The respondent-wife is habitual in filing complaints against him. She was already married two times before marrying the petitioner. She has been giving divorce by way of mutual consent after receiving a hefty amount. Earlier she was married with Pankaj and after taking divorce from him, she married another person Parveen, resident of village Bhatol Jatan, District Hisar. She is in habit of filing false complaints against her respective husbands and extracting money. The petitioner has been directed to pay maintenance more than what he is earning and, therefore, he is not in a position to pay Rs.3500/- per month to the respondent-wife.

I have heard learned counsel for the petitioner.

The awarded maintenance is Rs.3500/- per month. In her petition filed under Section 125 Cr.PC, the respondent-wife has pleaded that the petitioner is doing Halwai work in the shop of one Parveen and is maintaining illicit relations with a lady. Since the awarded amount is Rs.3500/- per month and that too being interim in nature, the argument of learned counsel for the petitioner that the petitioner is drawing a meagre amount of Rs.2000/- per month as handicap pension, cannot be appreciated as the earning capacity of the petitioner is a matter of evidence which can only be decided by the family Court in the petition under Section 125 Cr.P.C. Sometimes, there are certain employments, where even a disabled person can earn usual amount. The disability certificate (Annexure P-3) does reflect that the petitioner is handicapped because of post-polio residual and has some weakness in the hip. Therefore, considering the fact that the maintenance so awarded by the family

Court Rs3500/- per month and that too is interim in nature, no interference is warranted with the impugned order dated 03.05.2019 passed by the family Court.

Accordingly, affirming the impugned order dated 03.05.2019 passed by learned Principal Judge, Family Court, Jind, present criminal revision, being devoid of any merit, is dismissed.

However, the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the family Court shall decide the same without being influenced with these observations in any manner.

July 09, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No