

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

**CRR(F)-301-2016 (O&M)
Date of Decision: 2.4.2019**

Amita

.....PETITIONER(s).

VERSUS

Dushyant Rana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. V.P. Sangwan, Advocate
for the petitioner.

Mr. Abhimanyu Singh, Advocate,
for the respondent.

RAJ SHEKHAR ATTRI, J.

The petitioner has challenged order dated 1.3.2016 passed by District Judge (Family Court), Bhiwani vide which the application of the petitioner under Section 125 of the Code of Criminal Procedure was dismissed.

It is not in dispute that both the parties had tied the nuptial knot on 25.11.1996. Out of the wedlock, two children were born. However, at the time of filing the application, the children were residing with the real sister of the petitioner namely Smt. Madhu who is also married with the real brother-in-law of the present petitioner (husband's real brother). It is alleged that the respondent husband has treated the petitioner with cruelty. He has neglected her and refused to maintain her.

Earlier, she lodged an FIR under Sections 307 of Indian Penal Code and 25 of Arms Act. It has been submitted that in the absence of the petitioner, the respondent husband had broken the locks of the house and stolen her all articles and also taken the custody of the children forcibly. Other instances of cruelty has been given.

This petition was contested by the respondent husband on the ground that the petitioner was doing the work of readymade garments and also giving tuition earning ₹ 20,000/- per month. He denied all the allegations levelled against him and his family members. However, it has been submitted that all the criminal cases have been turned into acquittal.

I have heard learned counsel for the parties and gone through the record.

Section 125 of the Code of Criminal Procedure is a social legislation. It has been elucidated for the sole purpose to provide maintenance to the destituted wife, children and parents. In this case, the wife has asserted that she has been neglected by the respondent husband and also refused to maintain her.

The respondent husband has relied upon on different judgments of acquittal vide which he and his other family members were acquitted in regular trial.

A bare perusal of the record transpires that the respondent husband has sufficient funds to maintain his wife and the children. Ex.PW1/B is copy of the sale deed dated 7.7.1999 vide which he has purchased 19K-7M of land. However, it has been asserted that this land has been transferred by him. The petitioner has also placed on record

another copy of the sale deed dated 29.5.1996 vide which he purchased 16K of land. Copies of the jamabandi are also placed on record which shows that he owns sufficient land. Thus, he is in capacity to pay maintenance to the wife.

The claim of the petitioner was thwarted merely on the ground that she lodged certain criminal and civil cases against the respondent husband and his family members and all those criminal cases resulted into acquittal and the conduct of the petitioner wife does not entitle her maintenance. It has been further argued on behalf of the respondent husband that the petitioner is not residing with her husband and, therefore, she is not entitled to maintenance but to the mind of this Court, circumstances are made for her to leave the house and keeping in view the facts and circumstances of the case and the fact that the respondent husband owns sufficient land, the impugned order suffers from illegality, irregularity and infirmity and is not sustainable in the eyes of law. Learned court below failed to appreciate the facts and evidence on record.

Keeping in view the above, this Court is of the view that the petitioner is entitled to maintenance which is quantified @ ₹ 15,000/- per month from the date of application till realization.

The petition stands allowed accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

April 2, 2019
Paritosh Kumar

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No