

111.

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

CRR(F)-360-2018

Date of decision: 01.10.2019

ANIL KUMAR

.... Petitioner

versus

LILA DEVI AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rajiv Sharma, Advocate,
for the petitioner.

Mr. Vivek Sheoran, Advocate,
for the respondents.

HARI PAL VERMA, J. (Oral)

Petitioner-husband has filed the present revision petition against the order dated 07.06.2018 passed by the learned District Judge, Additional Family Court, Hisar, whereby on an application filed by the respondents under Section 125 Cr.P.C., petitioner has been directed to pay maintenance of Rs.15,000/- per month (i.e. Rs.8,000/- per month to respondent No.1-wife Lila Devi and Rs.7,000/- per month to respondent No.2-daughter Savita Bishnoi) from the date of filing of such petition.

Counsel for the petitioner has argued that the petitioner was earlier working with Cadila Company, but for not achieving the business target, he had to resign from that Company and now he is working with M/s Eris Life Sciences Limited. At the time when he was working with Cadila Company, his salary was Rs.16,695/- per month, but the learned Family

Court has considered his salary as Rs.30,000/- per month solely on the basis of presumption and accordingly, fixed the maintenance @ Rs.15,000/- per month, as indicated above. Whereas two daughters were born out of the wedlock and one of the daughter Kiran Bishnoi (respondent No.3) is staying with the petitioner. In this manner, he is not financially well off to pay such a huge amount of maintenance to the respondents. After resigning from the Cadila Company, the petitioner has to join another Company, namely, Eris Life Sciences Limited where he is getting salary of Rs.17,640/- per month. Counsel has referred to the salary slip of the petitioner (Annexure P-4). He further states that the petitioner has never thrown the respondent from the matrimonial home and she is the only legally wedded wife of the petitioner. On the basis of some presumption, the petitioner has been convicted for the offence under Section 494 IPC.

Counsel for the respondents has argued that the petitioner is a well-qualified person. While working with the Cadila Company, the petitioner was drawing salary of more than Rs.30,000/- per month, and after resigning from said Company, he has joined some other Company not only with better designation but on higher salary. Therefore, awarded maintenance is not on higher side as alleged by the petitioner.

I have heard counsel for the parties.

There is no dispute that the parties were married and out of this wedlock, two daughters were born. Whereas one of the daughters is staying with the petitioner, but at the same time, when the marriage was subsisting between the parties, the petitioner has solemnized another marriage, for which, he faced trial and was accordingly, convicted under Section 494 IPC.

Moreover, the respondent has pleaded that apart from the salary, the petitioner has additional income from 3-4 acres of agricultural land. The petitioner has performed another marriage with one Suman Rani, giving a reasonable cause to respondent No.1 to stay away from the petitioner.

Relevant discussion by the Family Court read as under:-

“11. In view of the above discussion and after careful perusal of the case file, this Court is of the considered opinion that so far as the admitted proposition of facts is concerned, the marriage of the petitioner No.1 and respondent had taken place on 22.2.2004 and out of their wedlock two daughters namely Savita and Kiran were born. It is also admitted that now one daughter namely Savita is residing with the petitioner No.1 and the other daughter namely Kiran is residing with the respondent. It is also the admission of the respondent that he has been convicted under section 494 of IPC for performing second marriage with one Suman Rani. However, as per him, he has preferred the appeal there against. Meaning thereby, there is sufficient reason with the petitioners to reside separately from the respondent. Admittedly, there is no income of the petitioner No.1 and thus the respondent is duty bound to maintain the petitioners who are wife and daughter of the respondent.

12. So far as the quantum of maintenance is concerned, the version of the respondent is that he has left the job from Cadila Pharmaceutical Ltd. where as per the communication Mark-A dated 20.11.2015 his resignation was accepted w.e.f. 31.10.2015. It is also the admission that from that company the respondent used to earn approximately Rs.29,000/- per month. Meaning thereby, if he has resigned from that company he might have got some better deal or opportunity and that is why he left that job. In such circumstances, his monthly income is taken as Rs.30,000/-. Out of this income of Rs.30,000/- the

petitioners are entitled for Rs.15,000/- per month because they being the wife and child of the respondent are also entitled for enjoying the same status which is being enjoyed by the respondent. The prices of everything are roaring high and the petitioner Savita is school going child. In such circumstances, this petition is hereby allowed. A sum of Rs.15,000/- per month (Rs.8000/- to petitioner No.1 and Rs.7000/- to petitioner No.2 during the period of her minority only) is hereby granted as maintenance to the petitioners, from the date of the petition. Besides Rs.5500/- are granted to the petitioners towards litigation expenses. Needless to say that if any amount is paid towards maintenance to petitioners in any other proceedings, same shall be set off against this amount.”

Be that as it may, but considering the fact that the petitioner has performed second marriage with Suman Rani without taking divorce from the respondent, speaks about his financial condition. Moreover, in today's scenario, the awarded maintenance @ Rs.15,000/- per month to the respondents (i.e. Rs.8,000/- per month to the wife and Rs.7,000/- per month to his daughter) is not on higher side. The argument put forward by the learned counsel for the petitioner that appeal against the judgment of conviction dated 08.09.2017 is pending before the learned Sessions Judge is of no relevance at this stage, more particularly when operation of this judgment has not been stayed.

Accordingly, the present petition is dismissed.

(HARI PAL VERMA)
JUDGE

01.10.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No