

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

CRR (F) No.393 of 2019 (O&M).

Decided on:- July 03, 2019.

Mohit Gupta.

.....Petitioner.

Versus

Aashita Gupta.

.....Respondent.

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

Present:- Mr. Anil Kumar Garg, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present criminal revision against the order dated 08.05.2019 passed by learned Principal Judge, Family Court, Bathinda, whereby on an application filed by the respondent-wife seeking interim maintenance in the petition under Section 125 Cr.P.C. filed by her, the family Court has awarded interim maintenance @ Rs.15,000/- per month to the respondent-wife with effect from the date of filing of the application along with litigation expenses of Rs.7,000/-.

Briefly stated, the respondent-wife had filed a petition against the petitioner-husband under Section 125 Cr.P.C. for grant of maintenance with the averments that the marriage between the parties was solemnized on 19.01.2014 and as per the wishes and demands of the petitioner's family, a sum of Rs.50-51 lakh was spent in the marriage. A girl child was born from the marriage on 16.11.2014. However, the respondent-wife was thrown out of the house at different times after giving beatings and abuses. The marriage

between the parties turned into rough weather from the beginning and the petitioner had shown no eagerness towards the respondent and told her that her family status is not as per the expectation of the petitioner and she has come from very poor family. The respondent-wife shared this fact with the parents of the petitioner, but they had picked up a quarrel with her. Despite the fact that the parents of the respondent spent a huge amount as per the wishes of the petitioner's family, greediness of the petitioner's family triggered never ending acts of cruelty.

The respondent-wife further averred that the petitioner-husband is a businessman and runs a showroom of Asian Paints in Delhi, which is a renowned one. The petitioner also owns a chunk of immovable property and earns in six digits per month. After about 1½ years of marriage, the petitioner and his family members in connivance with each other hatched a criminal conspiracy against the respondent and started maltreating her for the reason of less dowry and taunted her on the ground that the petitioner is their only son. So many rich families have approached for matrimonial alliance in the petitioner's family, but the family of the respondent-wife has not given dowry articles according to their status. When the respondent brought this fact to the notice of her father, on 14.06.2015, he came to her matrimonial home and gave Rs.1 lakh to her in-laws for peaceful settlement. The petitioner is habitual liquor drinker and used to compel the respondent to perform unnatural sex against her wishes after tying her arms and legs and when she had refused, he used to give her beating mercilessly.

When the respondent tried to tell about unnatural method of sexual intercourse of the petitioner to her parents-in-law, they flatly used to reply that it is her private matter between husband and wife. The petitioner had harassed the respondent for demand of Rs.20 lakh on the abatement of his uncle (Taya) Prem Chand, mother and father-in-law and sisters-in-law.

During pendency of the petitioner under Section 125 Cr.PC, the respondent has filed an application for grant of interim maintenance on the ground that the petitioner is able-bodied person, businessman and runs a showroom of Asian Paints in Delhi with his father and the said showroom is a renowned one. Besides this, the petitioner is owner of a chunk of immovable property which depicts that he is earning Rs.80,000/- to Rs.1 lakh per month. Therefore, he is in a position to pay interim maintenance to the respondent-wife @ Rs.25,000/- per month.

The said application for interim maintenance was decided by the family Court on 08.05.2019, whereby the petitioner was directed to pay interim maintenance @ Rs.15,000/- per month to the respondent-wife, which is subject matter of challenge before this Court.

Learned counsel for the petitioner has argued that the respondent-wife had moved a false complaint against the petitioner as well as his family members and near relatives making illegal allegations against them. The petitioner-husband moved an application before the Director General of Police and a thorough inquiry was conducted by the senior police official deputed by the Director General of Police, wherein it was found that the FIR was based on the false facts and, therefore, the police filed a

cancellation report. The respondent-wife, in order to put pressure upon the petitioner and his family members has filed an application under the provisions of Domestic Violence Act as well as Section 125 Cr.P.C. for grant of maintenance. The petitioner has produced his income proof and expenses being done by him for upbringing his school going daughter. The petitioner has produced his income proof to the extent that he earns about Rs.40,000/- per month and as far as the expenses of his daughter are concerned, that comes to Rs.23,000/- per month and in this manner, only an amount of Rs.17,000/- per month remains with the petitioner. Still the family Court has granted Rs.15,000/- per month as interim maintenance to the respondent-wife.

He has further argued that the family Court has not taken into consideration the relevant facts and record and granted maintenance in an arbitrary manner. Out of total monthly income of Rs.40,000/-, the petitioner is incurring expenses of his daughter, which comes to Rs.23,000/- per month and in case the petitioner pays the interim maintenance to the respondent @ Rs.15,000/- per month, only Rs.2,000/- per month is left to the petitioner to survive, which is too meager an amount to survive. The respondent-wife is well-qualified lady doing a private job and is earning sufficient income. Therefore, no maintenance is awardable to her.

I have heard learned counsel for the petitioner-husband and perused the impugned order.

The relationship between the parties is not in dispute. The petitioner is a well established businessman and while awarding interim maintenance of Rs.15,000/- per month, learned family Court has observed

that the petitioner is owner of an Audi Q5 car which speaks about his financial status. The plea of the petitioner that he is not the owner of the showroom and is just helping his father in the business of Asian Paints and is getting salary, cannot be accepted more particularly when the awarded maintenance is interim in nature. It cannot be outrightly accepted that the income of the petitioner is Rs.40,000/- per month and out of this amount, he is spending Rs.23,000/- per month for upbringing his daughter, when he is maintaining an Audi Q5 car, which is quite costly vehicle.

Therefore, considering the relationship between the parties and status of the petitioner, this Court finds that the maintenance so awarded by the family Court, which is interim in nature, is not on higher side. Therefore, no interference is warranted with the impugned order dated 08.05.2019 passed by the family Court.

Accordingly, affirming the impugned order dated 08.05.2019 passed by learned Principal Judge, Family Court, Bathinda 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 trial Court shall decide the same without being influenced with these observations in any manner.

July 03, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No