

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

**CRR(F)-466-2018 (O&M)
Date of Decision : 20.03.2019**

Sandeep Garg

..... Petitioner

Versus

Shivani and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Preetinder S.Ahluwalia, Advocate for the petitioner.
Ms. Kiran Bala Jain, Advocate for the respondents.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner has preferred the instant petition under Section 401 Cr.P.C. against the order dated 07.08.2018, passed by the learned District Judge (Family Court), Ambala vide which the respondents have been granted interim maintenance.

Undisputedly, both respondents Ms. Shivani-wife and Baby Kiara-daughter filed a petition under Section 125 Cr.P.C. for grant of maintenance on the ground that the petitioner had neglected and refused to maintain the respondents. The respondents have no source of income whereas the petitioner is earning money.

After hearing the learned counsel for the parties, learned court below awarded an amount of Rs.10,000/- per month to respondent No.1-Shivani and Rs.5,000/- per month to respondent No.2-Baby Kiara-daughter.

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

Learned counsel for the petitioner has submitted that the learned court below lacks territorial jurisdiction and the respondents have made active concealment.

On the other hand, learned counsel for the respondents denied the said facts and has stated that both the respondents are residing at Ambala.

I have given my thoughtful consideration to the rival contention.

First of all, coming to the point of jurisdiction. Section 126 Cr.P.C. describes the jurisdiction to file an application which reads as under:-

Section 126 (1) – Proceedings under Section 125 may be taken against any person in any district

(a) where he is, or

(b) where he or his wife resides, or

(c) Where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

Respondent No.1 claims that at present, she alongwith his daughter is residing at Ambala. This assertion of respondent No.1 cannot be disputed at this stage. To rebut the same, petitioner is required to place on record some strong evidence. However, nothing is placed on record if she is not residing at Ambala. As such, the Magistrate has the jurisdiction.

Now coming to the quantum of maintenance. The learned Magistrate has granted interim maintenance at the rate of Rs.10,000/- per month to respondent No.1-wife and Rs.5,000/- per month to respondent No.2-daughter. The income of the petitioner is stated to be Rs.2,50,000/-. He can easily pay the said amount of interim maintenance to respondents.

Amount of maintenance granted by learned Magistrate is merely sufficient to meet with the bare necessities of life.

As such, this court is of the view that the quantum of maintenance is not exorbitant rather it is appropriate to the circumstances of the case. Apart from it, the parties have to adduce evidence and in that eventuality it can be altered at either side.

In view of aforesaid discussion, this court is of the view that the impugned order does not suffer from any illegality, irregularity or infirmity and the same does not call for any interference and is hereby affirmed.

As such, finding no merit in the instant petition, the same is dismissed.

20.03.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No