

CRR(F)-480-2018

Date of Decision : 27.11.2019

Kailash Chand

.....Petitioner

versus

Poonam and another

....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Amit Rana, Advocate
for the petitioner.Mr. Vijay, Advocate
for the respondents.**FATEH DEEP SINGH, J.**

The petitioner/husband-Kailash Chand has invoked the jurisdiction of this Court through the instant revision petition, whereby, he has challenged the judgment/order dated 16.08.2018, passed in favour of the present respondents-wife and minor daughter, allowing them, on their application under Section 125 Cr.P.C., maintenance at the rate of ₹7,500/- per month to the wife and ₹2,500/- per month to the daughter, in all total to ₹10,000/- from the date of order.

Upon hearing learned counsel for both the sides and on

perusal of the records, it is duly admitted stand of the parties that the marriage between respondent No.2/wife-Poonam and petitioner/husband-Kailash Chand was solemnized on 23.02.2012, out of which, a daughter, now minor, was borne to the couple. It was during the course of their matrimony, a dispute arose, leading to the filing of the application for maintenance by the wife after she was thrown out by the husband. The claim of the wife that the husband is working in a Government undertaking, in Panchayat Samiti, is not at all displaced by the husband who claims that he is earning only ₹8,000/- per month. The wife has led evidence by way of her testimony PW-1 through her affidavit Ex. PW-1/A and examined Som Dutt Sharma as PW-2 and proved documents including expenses of the child, property owned by the husband and his salary certificate Ex.P-1 to Ex.P-11. The husband on the other hand examined himself as RW-1 through his affidavit RW-1/A has sought to refute the case of the wife.

As is there on the records, the documents reflect that the husband owns agricultural land which is detailed in revenue record (Ex.P-6 and Ex.P-7), the pay slips of the husband proved as Ex.P-8 to Ex.P-11, reflects that the husband was getting salary around ₹31,100/- though in his statement Ex. RW-1/A, he claim that he is getting ₹27,990/- per month as his salary and there is nothing reflective that his family members consisting of his father, mother and

brother, including brother's family, are dependent upon him and rather, in his cross examination, accepts the fact that his father owns 2.5 *bighas* of land in village Andhwari, while he himself owns immovable property in Macheri. Since, it is the duty of the husband to maintain his wife and dependent child, who do not have any source of income, movable or immovable properties and the facade, that is sought to be raised by the petitioner that his brother and his family is dependent on him, does not convinces the Court, when his brother himself is a grown up man and his family owns agricultural land, including one in the name of the father and, therefore, in the absence of any worthwhile evidence that they were dependents, this Court is slow to accept this argument of learned counsel for the petitioner.

The school expenses have been proved on the record by way of Ex.P-3, Ex.P-4 and Ex.P-5 are illustrative that the minor daughter is school going. Thus, in light of such a situation, it is the bounding duty of the petitioner/husband to ensure that the wife and the daughter are able to maintain themselves commensurate with his status. The Court below considering the salary of the husband to be ₹28,000/-, has awarded the maintenance to the wife and the daughter. The counsel for the petitioner could not convince this Court, how the same was on the higher side. For having a roof on the head, square meals a day, education of the child and her day to day requirements as well as enforcing obligations of life, to the mind of

this Court, a sum of ₹10,000/- does not appears to be, in any manner, on the higher side and could be termed to be illegal and perverse. The counsel for the petitioner could not convince this Court that the impugned findings are incorrect appreciation and thus, finding no merit, the petition stands dismissed.

27.11.2019*Neha***(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No