

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR(F)-556 of 2018

Date of Decision: 26.08.2019

Deepak Sharma

...Petitioner(s)

Versus

Khushbu Sharma & another

...Respondent(s)

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

Present:- Mr. Amandeep Rana, Advocate
for the petitioner.

HARI PAL VERMA, J.

Petitioner – Deepak Sharma has filed the present revision petition against order dated 11.09.2018 passed by Additional Principal Judge, Family Court, Gurugram, whereby on an application filed by the respondents for grant of interim maintenance, learned Family Court has held respondent No.1-wife and respondent No.2-son entitled to maintenance @ of Rs.5,000/- and Rs.2,500/- per month respectively from the date of filing of such application.

Briefly stated, the marriage between the petitioner and respondent No. 1 was solemnized on 22.11.2015 and a son namely Vaidant was born to them out of this wedlock. The respondents filed the instant application under section 125 CrPC for grant of *ad interim* maintenance with the averments that the petitioner is working as Computer Operator in a

reputed company known as Communication Test Design India Private Limited at Manesar, Gurugram and getting a handsome salary of Rs. 16,873/- per month. He is also owner of one Killa agricultural land in the village and is also engaged in sale/purchase of buffaloes as well as selling milk of buffaloes. Thus, he is having extra income of Rs.15,000/- per month from such dairy in addition to his salary.

Learned Family Court allowed the said application and awarded the aforesaid maintenance to the respondents, while considering consolidated income of the petitioner from all sources as Rs.25,000/- per month.

Learned counsel for the petitioner has argued that the Family Court has failed to appreciate the material on record and has allowed the application filed by the respondents for grant of interim maintenance in an erroneous manner. The financial status of the petitioner was required to be determined on the basis of cogent evidence led by both the parties and not merely on the basis of allegations made by the respondent-wife, which are nothing but mere presumptory in nature. The Family Court was required to look into status of the parties, their respective needs and the capacity of the husband to pay such maintenance. However, the maintenance awarded by the Family Court is too excessive vis-à-vis his monthly income. The Court has wrongly taken into consideration income of the petitioner as Rs.25,000/- per month, despite the fact that the petitioner was working as a Computer Operator in a private firm and getting a salary of Rs.16,873/- per month and after deductions, his carry home salary was Rs.14,000/- per month. Though this fact has not been controverted by the respondents, but

still the Family Court has wrongly formed an opinion that the petitioner being a skilled person is earning Rs.25,000/- per month, which is contrary to the evidence on record. The conduct of the respondent-wife has not been considered by the Family Court. The respondent-wife has succeeded in getting in the interim maintenance by making false averments. Out of the total amount of Rs.14,000/- drawn by the petitioner per month, he is required to maintain his old-aged mother, who is living with him. In order to attend his workplace, the petitioner is required to travel all the way from Rampur (Pataudi) to Manesar on his motorcycle covering a total distance of about 25-30 km daily and thus, he spends Rs.2,500/- per month on petrol alone. Even otherwise respondent No. 1-wife is an able-bodied person and capable of earning. She is staying with her parents and not in a rented accommodation therefore, the interim maintenance awarded by the Family Court is on higher side.

I have heard learned Counsel for the petitioner.

There is no dispute that the petitioner is working as a Computer Operator and earning Rs.16,873/- per month. Learned Family Court has held respondent No.1-wife and respondent No.2-son entitled to interim maintenance @ Rs.5,000/- and Rs.2,500/- per month respectively. It has also been averred by the respondents that the petitioner is owner of land and running a dairy in addition to sale and purchase of buffaloes. The claimants are none else but his own wife and minor child, who also have right to live with dignity in consonance to the status of her husband. Moreover, the maintenance awarded by the Family Court is interim in nature. No such evidence has been brought on record by the petitioner-

husband, which may justify interference with the impugned judgment dated 11.09.2018 passed by the Family Court.

Accordingly, in view the totality of the facts and circumstances, the social strata to which the parties to litigation belong, their respective means, prevalent inflation, rising price index, rising prices of the bare necessities of life like food, shelter, clothing, medical expenses and other unforeseen contingencies, this Court is of the opinion that the Family Court has considered the claim of respondents in right perspective and therefore, no interference is warranted by this Court.

Accordingly, the present revision petition is dismissed.

August 26, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No