

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204(1)

CRR(F)-70-2018

Satender Singh Lamba

.....Petitioner

Versus

Deepti

.....Respondent

204(2)

CRR(F)-340-2018

Deepti

.....Petitioner

Versus

Satender Singh Lamba

.....Respondent

Date of Decision: 12.07.2019

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

Present: Petitioner in person in CRR(F)-70-2018.

Mr. Rakesh Dhiman, Advocate,
for the petitioner in CRR(F)-340-2018 and
for the respondent in CRR(F)-70-2018.

HARI PAL VERMA, J.

Vide this common order, two revision petitions i.e. CRR(F)-70-2018, titled as Satender Singh Lamba Versus Deepti and CRR(F)-340-2018, titled as Deepti Versus Satender Singh Lamba, are being decided, as both have arisen from the common judgment dated 10.01.2018 passed by learned Principal District Judge, Family Court, Gurugram.

CRR(F)-70-2018 has been filed by the husband challenging the judgment of Family Court whereby maintenance was granted to the respondent-wife, whereas CRR(F)-340-2018 has been filed by wife seeking

enhancement of maintenance over and above the amount granted to her.

Briefly stated, respondent-Deepti (wife) has filed a petition under Section 125 Cr.P.C. for grant of maintenance. The marriage between the parties was solemnized on 12.05.2013 and after marriage, they lived together as husband and wife at village Sarai Alawardi, Post Office Palam Vihar, Gurugram. No child was born from this marriage. The parents of the respondent-wife had spent Rs.15 lakhs in the marriage and had given about Rs.60,000/- in cash for the purchase of a motorcycle to the petitioner. But the petitioner and his family members intentionally started misbehaving with the respondent wife, rather demanded Rs.5 lakh and a luxury car, whereas the respondent and her family were not financially well off and were not in a position to pay. Therefore, she was turned out of the matrimonial home for not fulfilling the dowry demands and was tortured physically and mentally. She was treated badly and she had to live in a separate room in her matrimonial home. The respondent-wife was refused any financial help including her day-to-day expenses. Since she was not in a position to maintain herself, she filed a petition under Section 125 Cr.P.C. for grant of maintenance with the averment that the petitioner-husband is doing property dealings and is also a popular singer. He is earning Rs.50,000/- per month and apart from this, he is owner of 5 acres of land in village Sarai Alawardi and 10 acres of land in New Delhi near Yamuna River, having a rental income of Rs.20,000/- per month. In addition thereto, he also owns a plot measuring 300 square yards situated at Ansal Plaza Palam Vihar, Gurgaon and in this manner, he is earning more than Rs.1.5 lakh per month and leading a very lavish life. He has deserted the respondent-wife intentionally and deliberately.

The learned Family Court vide order dated 10.01.2018 while assessing the income of the petitioner-husband between Rs.20,000/- to Rs.25,000/- per month and noticing the fact that the respondent-wife is residing in one room which belongs to the petitioner's family, awarded her Rs.5,000/- per month towards maintenance from the date of filing of the petition. At the same time, it was also directed that in case she is evicted from the room she is occupying or there is any order passed by the Court to vacate the room in question, she would be entitled to Rs.2,500/- per month towards rent from the petitioner-husband.

The petitioner/husband who is appearing in person has argued that the respondent-wife has falsely implicated him and got conducted a false medico legal report dated 04.05.2015, levelling false allegations against him. The sister of the petitioner-husband has made various complaints to the police against the cruelty made to the family of the petitioner-husband at the behest of respondent-wife, but of no use. The Family Court fell in error and the evidence Exs. R-1 to R-21 led during the proceedings have not been discussed while passing the impugned order dated 10.01.2018. Exhibit R-21 is the conversation between the petitioner-husband and the respondent-wife, wherein the wife is boasting about the factum of inflicting injuries upon her body, so as to falsely implicate the petitioner-husband. Since, the respondent-wife is living in the house of her in-laws and using all bare minimum necessities, which were being provided by the petitioner-husband in the house before the marital discord, thus, there arises no occasion or a situation to allege that the petitioner has neglected the respondent-wife in any manner.

He has further argued that provision of Section 125 Cr.P.C.

does not confer an absolute right on the respondent-wife to receive the maintenance and the word “may” has its own significance. The Court has to decide the maintainability of maintenance petition by taking into consideration all evidence and the obligation of the wife towards the husband. The petitioner has produced on record the Disability Certificate, Ex.R-19 showing therein that he is holding permanent disability to the extent of 24%, but the same has been ignored by the Court on the ground that it does not affect the petitioner in any manner and has still awarded Rs.5,000/- per month as maintenance to the wife. The respondent-wife has made bald assertions pertaining to the immovable property without there being any evidence to that effect.

On the other hand, learned counsel for the petitioner-wife who has filed a separate petition i.e. CRR(F)-340-2018 seeking enhancement of maintenance has argued that the petitioner-wife was tortured mentally and physically by the respondent-husband and his family members. She was living in one room without there being any kitchen attached to it and the respondent-husband used to consume liquor heavily and indulged in gambling activities and frequently beaten the petitioner-wife mercilessly. On 04.05.2015, the respondent-husband took an iron which was extremely hot and pressed upon the body of the petitioner-wife. She cried for help as she was writhing in pain, but the respondent did not provide her any medical treatment. Necessary complaint was made to the concerned Police Commissioner also. She was also turned out of the matrimonial house and is living in a miserable condition. She has been constrained to live in one room in her matrimonial house and the respondent-husband is not helping her financially despite being sufficiently financially equipped.

Heard.

The vehement argument put-forth by the petitioner/husband is that he is a physically handicapped person and has no regular source of income, though, the respondent-wife has alleged that the petitioner is having sufficient immovable property which includes 5 acres of land in village Sarai Alawardi and 10 acres of land in New Delhi near Yamuna River, having a rental income of Rs.20,000 per month. He also owns a plot measuring 300 square yards situated at Ansal Plaza Palam Vihar, Gurgaon. Petitioner-husband is a popular singer and in this manner, his monthly income comes to Rs.1.5 lakh. But except the affidavit, Ex.PW1/A, the respondent-wife has not been able to substantiate her claim by leading any cogent supportive evidence. She has placed reliance upon document, Ex.P-4, which is jamabandi for the year 2005-06 relating to some Ramdhan and Lekh Ram who have been shown as owners of land at Sarai Alawardi, but she has failed to adduce any evidence as to how and in what manner, the said jamabandi is connected with the petitioner-husband. Though, there is admission on the part of the petitioner that this land belongs to his grandfather, but at the same time, his grandfather is alive and therefore, the land still stands in the name of his grandfather. Thus, in the absence of any clear evidence that the petitioner-husband owns any separate property, it cannot be out-rightly accepted that he is earning Rs.1.5 lakh per month. There is nothing on record to show that the petitioner is actually earning any money while singing. It is not in dispute that he is a singer and aspires to establish his singing career. The argument of the petitioner that he is a handicapped person to the extent of 24%, though, no such certificate has been placed on record, but this alleged disability is not going to hamper the

career of the petitioner as singer. The petitioner/husband is present in person and has been interacted by the Court. This court has not noticed any deformity in his physique which can be a ground for denial of maintenance to the wife. However, this Court finds that the learned Family Court has considered the income of the petitioner between Rs.20,000/- to Rs.25,000/- per month but no such material is brought on record by the respondent-wife that he is having a regular income as claimed in the petition filed under Section 125 Cr.P.C. But considering his family setup and his talent as a Singer, it can safely be presumed that he must be earning not less than Rs.20,000/- per month and accordingly allowed maintenance to wife @ Rs.5000/- per month in addition to accommodation i.e. one room in the matrimonial home.

Therefore, this Court finds that the learned Family Court has rightly considered the income of the petitioner ranging between Rs.20,000/- to Rs.25,000/-. In this manner, no ground to interfere in the impugned order dated 10.01.2018 passed by learned Principal District Judge, Family Court, Gurugram, is made out. Accordingly, both the petitions are hereby dismissed.

July 12, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No