

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR(F) No.445 of 2019 (O&M)

Date of Decision: 13.12.2019

Parshant Dubey

...Petitioner (s)

Versus

Smt. Nisha Dubey & another

...Respondent(s)

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

Present:- Mr. Gaurav Tyagi, Advocate
for the petitioner.

Mr. A.P. Setia, Advocate
for respondents.

HARI PAL VERMA, J. (Oral)

Petitioner – Parshant Dubey has filed this revision petition impugning the judgment dated 02.04.2019 passed by learned Principal District Judge, Family Court, Gurugram, whereby, on a petition filed by the respondents under Section 125 CrPC, learned Family Court has awarded maintenance of Rs.17,500/- per month (i.e. Rs.10,000/- per month to respondent no.1 and Rs.7,500/- per month to respondent no.2-daughter) from the date of filing the petition i.e. 20.09.2016.

Learned counsel for the petitioner has argued that in addition to the maintenance so awarded by the Family Court under Section 125 CrPC, the petitioner is required to pay another amount of Rs.5,000/- to the

respondents under the Protection of Women from Domestic Violence Act, 2005 (for short, “the Domestic Violence Act”). He has referred to the salary certificate Mark-PD of the petitioner, as per which, the petitioner is being paid salary of Rs.41,895/- per month, while working with EMMAR MGF Land Limited. He further states that the job of the petitioner is touring one and he is required to travel various places in Agra, Delhi, Gurgaon, Lucknow etc. In this manner, the awarded maintenance to the respondents is too excessive, particularly when he is required to maintain his old mother, who is staying in Agra in a rental accommodation.

On the other hand, learned counsel for the respondents has argued that income of the petitioner is more than what he has projected in the Salary Certificate Mark-PD. Moreover, the respondent no.1 is not working, though she is M.A. B.Ed., as she has not passed the Teacher Eligibility Test, which is required for being appointed as a teacher. Moreover, she is required to take care of her daughter who is now in the age group of 4 years and is to be admitted in a school. Therefore, there is no illegality in the order passed by the Family Court, awarding maintenance to them. As regards payment of Rs.5,000/- to respondent no.1 under the Domestic Violence Act is concerned, the same is very much required for her as she does not own any house in her name.

I have heard learned counsel for the parties.

Pursuant to order dated 15.10.2019, the parties are present in Court and they have been interacted at sufficient length.

There is no dispute that the petitioner-husband is working with EMMAR MGF Land Limited and drawing a salary of Rs.41,895/- per

month whereas the respondent no.1-wife is unemployed and is also required to take care of her minor daughter. No doubt, the respondent no.1 is entitled to claim maintenance under Section 125 CrPC or Domestic Violence Act, but once maintenance has been awarded under both the provisions of law, the wife can claim maintenance which is higher. In the case in hand, respondent no.1 is already getting maintenance @ Rs.5,000/- per month under the Domestic Violence Act whereas in the present proceedings, she has been held entitled for maintenance @ Rs.17,500/- per month i.e. Rs.10,000/- per month to respondent no.1 and Rs.7,500/- per month to respondent no.2-daughter. Thus, in the given circumstances, this Court would like to modify the order dated 02.04.2019 passed by the Family Court to the extent that respondents would be entitled to claim total maintenance @ Rs.17,500/- per month including the maintenance under the Domestic Violence Act.

Accordingly, the present petition is disposed of and the impugned order dated 02.04.2019 passed by the Family Court is modified to the extent that in addition to the maintenance awarded under the Domestic Violence Act i.e. Rs.5,000/- per month, respondent no.1 would be entitled to claim total maintenance @ Rs.7,500/- per month whereas respondent no.2-minor daughter shall be entitled for maintenance @ Rs.5,000/- per month.

December 13, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No