

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

CRR (F) No.561 of 2019.
Decided on:- August 22, 2019.

Sudhir.

.....Petitioner.

Versus

Smt. Pinki Sharma.

.....Respondent.

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

Present:- Mr. Naveen S. Bhardwaj, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed the present criminal revision against the judgment dated 22.05.2019 passed by the learned Principal District Judge (Family Court), Bhiwani, whereby in a petition filed by the respondent-wife under Section 127 Cr.P.C. seeking enhancement of her maintenance allowance, the family Court had enhanced the amount of maintenance from Rs.3,000/- to Rs.5,000/- per month from the date of filing of such petition.

Initially, the respondent-wife had filed a petition under Section 125 Cr.PC for grant of maintenance and the Family Court had awarded maintenance to the tune of Rs.3,000/- per month to the respondent-wife from the date of filing of the petition which was subsequently enhanced to Rs.5,000/- per month vide impugned judgment dated 22.05.2019 passed by the family Court.

Learned counsel for the petitioner has argued that the marriage between the parties was solemnised on 21.06.2010 and no child was born

from the wedlock. The behaviour of respondent-wife remained indifferent as she never wanted to live in the village with the petitioner, rather, she wanted to stay in Bhiwani city. The respondent, who is a quarrelsome lady, and used to fight on trifle issues. She would never allow the petitioner-husband to see his parents and, rather used to humiliate the petitioner by using filthy language. In December, 2010, she left the matrimonial home without informing the petitioner and started living with her parents. She had returned back to her matrimonial home on 20.06.2013, so as to implicate the petitioner and his family members in a false case. The petitioner was still ready to keep the respondent-wife with him and in order to give effect to this intention, he had filed a petition under Section 9 of the Hindu Marriage Act, 1955, but the respondent-wife still refused to join him. Rather, she and her family demanded Rs.10 lakh, so as to grant divorce, but when the petitioner did not oblige them, an FIR No.131 dated 22.02.2014 under Sections 498-A, 323 and 506 read with Section 34 IPC was got registered against the petitioner and his aged parents.

He has further argued that even the amount of Rs.3,000/- per month as awarded by the family Court vide judgment dated 06.01.2015 was on higher side. As the respondent-wife was adamant to harass the petitioner and his parents, she also filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, but the same was dismissed vide judgment dated 21.12.2016 passed by learned Judicial Magistrate 1st Class, Bhiwani. The filing of petition under Section 127 Cr.PC for enhancement of maintenance is nothing but another attempt to harass the petitioner mentally and financially. While enhancing the maintenance from

Rs.3,000/- per month to Rs.5,000/- per month, the family Court has not appreciated the indicated facts and circumstances of the case and the information/ material available on record.

Arguments were further supplemented that the respondent-wife has failed to substantiate the allegations of cruelty and maltreatment as made in FIR No.131 dated 22.02.2014 under Sections 498-A, 323 and 506 read with Section 34 IPC as well as the proceedings under the Domestic Violence Act. It could not be assumed that she is residing separately with some reasonable cause. Therefore, she is not entitled to claim any maintenance much less enhanced maintenance from the petitioner as there is bar under Section 125(4) Cr.P.C. The statement given by the respondent-wife under Section 9 of the Hindu Marriage Act, 1955 proves that she was not interested to live with the petitioner as she has flatly refused to stay with the petitioner.

I have heard learned counsel for the petitioner.

The petitioner-husband has not assailed the earlier judgment dated 06.01.2015 passed by the family Court, whereby at the initial stage, the family Court had awarded maintenance @ Rs.3,000/- per month to the respondent-wife from the date of filing of the petition. Thereafter, it is on the basis of petition filed by respondent under Section 127 Cr.PC, the maintenance has been enhanced to Rs.5,000/- per month vide impugned judgment dated 22.05.2019 passed by the family Court.

The argument of learned counsel for the petitioner-husband that the respondent-wife is not entitled to any maintenance as she has no sufficient cause to live separately, cannot be accepted as generally no woman would like to stay away from her matrimonial home without there being a cause. The

petitioner is an able bodied person and is, therefore, required to maintain his wife sufficiently so that she can spend her life with dignity and avoid vagrancy and destitution. By not challenging the initial maintenance of Rs.3,000/- per month, the petitioner has accepted the very claim of respondent, except the quantum of enhanced amount of maintenance.

In today's time, the amount of Rs.3,000/- per month as maintenance for a wife so as to survive is too unrealistic to survive even if it is assumed that the husband is working as a labourer. The labourer also earns wages about Rs.15,000/- per month. The petitioner has failed to satisfy this Court that the respondent-wife has no sufficient cause to live separately. The enhanced maintenance is a bare minimum to survive.

In view of the totality of the facts and circumstances of the case and considering the relationship between the parties as the marriage is not in dispute, this Court finds that the amount of Rs.5,000/- per month awarded by the family Court in the petition under Section 127 Cr.PC is certainly not on higher side particularly when the cost of living is increasing day by day. Thus, no interference is warranted with the impugned judgment dated 22.05.2019 passed by the family Court.

Accordingly, affirming the impugned judgment dated 22.05.2019 passed by the family Court, present criminal revision, being devoid of any merit, is dismissed.

August 22, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
No