

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR(F)-695 of 2019 (O&M)

Date of Decision: 17.09.2019

Kuldeep

...Petitioner(s)

Versus

Saroj & another

...Respondent(s)

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

Present:- Mr. Jitender Dhanda, Advocate
for the petitioner.

HARI PAL VERMA, J.

CRM-28722-2019:

For the reasons stated in the application, the same is allowed.

Delay of 67 days in filing the present petition is condoned.

CRR(F)-695 of 2019

Petitioner-husband has filed the present revision petition against judgment dated 09.04.2019 passed by Learned Principal District Judge, Family Court, Hissar, whereby on a petition filed under section 125 CrPC, maintenance has been awarded to respondents no.1 (wife) and respondent no.2 (son) @ Rs.4000/- per month and Rs.1,000/- per month respectively from the date of filing of the petition.

Briefly stated, marriage between the parties was solemnised on 27.11.2014, wherein the parents of respondent No. 1 gave sufficient

dowry including jewellery etc. but still, the family of the petitioner was not happy and therefore they started harassing, humiliating and torturing respondent No. 1 for bringing insufficient dowry. Demand of motorcycle and an amount of Rs.3,50,000 for the job of the petitioner was raised. The parents of respondent No.1 arranged the said amount after selling the buffaloes and releasing FDR etc. and gave the same to the petitioner and his family members. Thereafter, respondent No.1 was kept properly for some time, however, after some time, they again raised their demand of motorcycle and again started giving beatings to respondent No. 1. She was thrown out of matrimonial home on 18.06.2015 despite the fact that she was pregnant. Accordingly, a panchayat was convened, so as to settle the dispute. But the family members of the petitioner remained adamant on their demand of dowry. The matter was also reported to the police, on the basis of this, case FIR No. 1058 dated 25/10/2015 under section 498A/406 IPC was registered.

Since the respondents were not treated and maintained well by the petitioner, they filed a petition under section 125 Cr.P.C. with the averments that though the petitioner was under obligation to maintain his wife and child, but he has failed to discharge his legal obligation. The respondent No. 1 had no source of income, whereas the petitioner was doing a private job and earning Rs.20,000/- per month, besides having other movable and immovable properties. Learned Family Court, while considering the evidence of respondent No. 1, who has appeared as PW-1 and her affidavit Ex.PW1/A, Ex. P-1 (copies of jamabandies for the year 2011-17, Ex. P-2 (copies of jamabandies for the year 2006-07), which

showed that the petitioner along with his family members was having agricultural land, awarded maintenance at the rate of Rs.4000/- per month to respondent No. 1-wife and Rs.1000/- to respondent No. 2 - son from the date of the petition.

The aforesaid judgement is under challenge by way of this revision petition on behalf of husband.

Learned counsel for the petitioner has argued that the respondent-wife is not entitled to maintenance under section 125 CrPC because of her own act and conduct, as she left the company of the petitioner-husband without any sufficient cause, as provided under section 125(4) CrPC, which disentitles such wife from maintenance. Respondent No. 1 has withdrawn from the society of the petitioner without any cause. She is rather habitual of leaving the matrimonial home repeatedly without the consent and knowledge of the petitioner. Her behaviour was hostile towards the petitioner from the very beginning. Respondent No.1 even lodged an FIR against the petitioner, wherein he had to face the trial unnecessarily. The allegations in the said FIR were false. Accordingly, the petitioner was acquitted vide judgment dated 06.03.2018. Therefore, considering the conduct of respondent No.1, the petition under Section 125 Cr.P.C. was liable to be dismissed. However, learned Family Court has not considered the judgment of acquittal dated 06.03.2018. Learned Family Court has even failed to consider the voice recording Annexure R-5 between respondent No.1 and her mother, wherein her mother was instigating the respondent No.1 to take money from the petitioner and to send the same to her. Thus, the money was being siphoned to her. He has

further argued that he has no regular source of income and therefore, the petitioner cannot be compelled to pay such maintenance.

I have heard learned counsel for the petitioner.

The marriage between petitioner and respondent No. 1 and a son from this wedlock is not in dispute. It is the minimum obligation on the part of the husband to maintain his wife and child, but the petitioner despite being an able-bodied and young person, has failed to discharge this obligation and rather, avoiding it. The very object of provisions under Section 125 CrPC is not to punish a person for his past neglect, but to prevent vagrancy and asking those who can provide support to the needy person who are otherwise unable to survive independently. The provisions of Section 125 CrPC are a measure of social justice, especially enacted to protect women and children to provide speedy remedies for supply of food, clothing and shelter to the deserted wife. The argument of learned counsel for the petitioner that the wife has withdrawn from the society of the petitioner without there being any sufficient cause, is contrary to the conduct of the petitioner himself, as the petitioner has never made any effort to take his wife back to her matrimonial home nor has filed any petition under section 9 of the Hindu Marriage Act for restitution of conjugal rights. Further, as regards acquittal of the petitioner in the FIR in question is concerned, merely because he has been acquitted in the case, is no ground to avoid his legal obligation to pay maintenance to his needy wife and minor child.

Even otherwise the scope of revisionary jurisdiction of this Court is very limited. The Family Court has awarded Rs.4000/- per month

to respondent No.1-wife and Rs.1000/- per month to respondent No.2-son, which is certainly not on the higher side.

During the course of arguments it has been argued on behalf of the petitioner that the petitioner is not financially well off and is not able to pay the maintenance so awarded and in case he is made to pay this much amount, he will have no option but to go to Haridwar. This court finds that such an argument is totally misconceived. It is for the petitioner to opt for the ways and means of his life, but he cannot be permitted to avoid his legal obligation of payment of maintenance to his needy wife and son. No such evidence has been brought on record to substantiate the facts that the petitioner possesses any physical disability to pay or the wife is earning independently. Therefore, this Court finds that the maintenance so awarded by the Family Court is certainly not on higher side.

Accordingly, the present revision petition is dismissed with costs of Rs.10,000/-, which shall be paid to respondent No.1 within a month from today

September 17, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No