

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

CRR (F) No.895 of 2019.

Decided on:- November 06, 2019.

Sandeep Kaur.

.....Petitioner.

Versus

Parminder Singh.

.....Respondent.

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

Present:- Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner-wife has filed this revision petition against the judgment dated 04.09.2019 passed by learned Additional Principal Judge, Family Court, Jalandhar, whereby her petition filed under Section 125 Cr.PC against the respondent-husband, was dismissed.

Briefly stated, the petitioner-wife had filed a petition under Section 125 Cr.PC against the respondent-husband seeking maintenance with the averments that her marriage was solemnised with the respondent on 03.01.2015 in Shahkot, District Jalandhar as per Sikh rites. After marriage, they lived together as husband and wife. A female child Ravleen Kaur was born to them on 08.01.2016.

It has been further pleaded that soon after the marriage, the respondent and his family members started harassing the petitioner asking her to bring more dowry on the pretext that the marriage was not solemnised as

per their wish and status. The respondent used to beat the petitioner mercilessly. The dowry given by the parents of the petitioner could not satisfy the lust of the respondent and his family members and, therefore, their behaviour with the petitioner was cruel and started harassing her mentally as well as physically.

The petitioner has further pleaded that the respondent is a habitual drunkard person and used to come home in drunkard condition. He would beat her every day on petty matters. The petitioner has no source of income. She is a house-wife and is an unskilled lady. She is not in a position to earn anything, whereas the respondent is earning Rs.50,000/- per month from agriculture land having sufficient movable and immovable property. Since he has refused to maintain the petitioner, she is entitled to the maintenance @ Rs.20,000/- per month.

In his written statement, the respondent admitted the marriage and the fact that a daughter was born to them, but he had pleaded that the petitioner had left the matrimonial home without any cause when the daughter was hardly 40 days old. The marriage was simple and the respondent's family neither demanded any dowry nor maltreated the petitioner for any dowry. Rather, the petitioner herself has taken the gold jewellery which was given as a *Shagun* to her by the parents of the respondent at the time of marriage.

After recording evidence of both the parties and on hearing their arguments, learned family Court, vide impugned judgment dated 04.09.2019 had dismissed the petition under Section 125 Cr.PC filed by the petitioner.

It is in these circumstances, the petitioner has filed present criminal revision impugning the aforesaid judgment dated 04.09.2019.

Learned counsel for the petitioner has argued that it is bounden duty of the respondent-husband to maintain his wife. The petitioner is having three sisters and is solely dependent upon her old aged father. There is nothing on record that the petitioner is earning, but still the family Court has dismissed her petition under Section 125 Cr.PC seeking maintenance by observing that since the petitioner is MBA, she is capable to earn some amount while working. Thus, the impugned judgment dated 04.09.2019 passed by the family Court being totally wrong and unjust is liable to be set aside.

I have heard learned counsel for the petitioner.

Learned family Court had declined the claim of the petitioner while making observation in paragraph No.12 of the impugned judgment dated 04.09.2019, which is as under:

“12. Although, the petitioner has taken specific stand that she was ill-treated and beaten many times by the respondent and his family members but admittedly, there is no medical evidence on record regarding the beatings and injuries inflicted by the respondent on her. However, cross-examination of the petitioner shows that she is residing separate from the respondent and his family without any reasonable cause. She has categorically admitted in her cross-examination that after the marriage, she used to go to her college and continued her studies. She went to the college after about one month of the marriage. Thereafter, she also completed her M.B.A. She also admitted that she has never filed any petition for taking custody of the daughter nor has filed any petition for restitution of conjugal rights. She also admitted that when the daughter was 1½ month old, she started going to the college. She also admitted that she went to her college from her in-law’s house. This by

itself shows that when the daughter-in-law or wife who continued her regular studies with the consent of her in-laws then there would be no occasion for ill-treating her. If the in-laws or respondent-husband used to ill-treat her or beat her they would have never allowed her to continue with her studies on regular basis. Even father of the petitioner as PW2 has admitted that his daughter was studying in the college at the time of marriage and even after marriage, she continued her studies from her in-laws house. Rather, further cross-examination of the petitioner as PW1 shows that she is interested in getting share of the property of the respondent. She has categorically insisted that she is ready to go back to her in-laws house if the respondent gives her share in the land and in the house. When she was asked that if the land and property is named in the name of her daughter then she is ready to go back to her in-laws house, she categorically stated that if she is given her share only then she will go back to her in-laws house, showing thereby that the interest of the petitioner is not to live with her husband in her in-laws house or to look after the minor girl child rather her interest is in the share of the property which she seeks. This by itself is sufficient to show that she is living separate from the respondent without any sufficient and reasonable cause.”

Thus, it has come in evidence that while appearing as AW1 in the witness box, the petitioner has admitted in her cross-examination that she is interested in getting share in the property of the respondent and had put a condition that if the respondent gives her share in the land and in the house, she is ready to go back to the in-laws’ house. Though an offer was made to the petitioner if the property is transferred in the name of her daughter, whether the petitioner would be ready to go to the matrimonial home, but she did not accept the offer. It shows that she is not interested to live with the

respondent in the in-laws' house and to look after the minor daughter, rather, she is interested in having share in the property of the respondent.

Since the petitioner was found to be living separately from her husband without there being any sufficient cause, this Court finds that the petition under Section 125 Cr.PC filed by the petitioner has rightly been dismissed by the family Court.

Accordingly, affirming the impugned judgment dated 04.09.2019 passed by learned Additional Principal Judge, Family Court, Jalandhar, the present criminal revision, being devoid of any merit, is dismissed.

November 06, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No