

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

**CRR-222-2018 (O&M)
Date of Decision : 07.03.2019**

Sunil Kumar alias Sunil Babu

..... Petitioner

Versus

Smt. Indu

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Sachin Mittal, Advocate
for the petitioner.

Mr. Surinder Dagar, Advocate
for the respondent.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner has preferred the instant revision petition under Section 401 IPC, challenging the order dated 11.12.2014, passed by the learned Judicial Magistrate Ist Class, Chandigarh vide which the respondent-wife was granted maintenance at the rate of Rs.25,000/- per month as well as Rs.2,00,000/- as security for the female child for her future education and medical expenses.

Learned counsel for the petitioner has submitted that there is no proof of any violence or cruelty on the part of the petitioner; the medico legal report, produced by the respondent-wife is not acceptable and the salary of the petitioner is highly meagre.

This court has given thoughtful consideration to the rival contentions.

On bare perusal of the record, it transpires that the domestic violence is writ large. The complainant stepped into witness box as

PW6. She has been cross-examined at length and her evidence establishes that she was subjected to cruelty.

The provisions of Chapter X Cr.P.C. should be liberally construed as the primary object is to give social justice to women and children and to prevent distribution and vagrancy by compelling those who can support those who are unable to support themselves. These provisions provide a speedy remedy to those who are in distress and are intended to achieve this social purpose. This provision gives effect to the natural and fundamental duty of a man to maintain his wife, children and parents so long as they are unable to maintain themselves. The said provisions apply and are enforceable, whatever may be the personal law by which the persons concerned are governed.

Section 125 Cr.P.C. enacted by the legislature was to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home being harassed and maltreated by her husband and neglected or refused to provide her maintenance, so that she can sustain herself and her children. However, the concept of sustenance does not ordinarily mean to lead the life of a cattle or any chattel to be thrown away from grace and roam for her basic maintenance somewhere else. She is having legal right to lead a life in the similar manner as she would have lived in the house of her husband.

In a case relating to grant of maintenance, the Supreme Court observed that in both constitutional and statutory interpretation, the Court is supposed to exercise discretion in determining the proper relationship between subjective and objective purpose of law. Of late, in this very direction, it is emphasised that the Courts have to adopt different

approaches in social justice adjudication, which is also known as social context adjudication. Merely adversarial approach may not be appropriate. There are a number of social justice legislations giving special protection and benefits to such groups. Thus, it was observed that the role of the Court is to understand the purpose of law in society and to help the law achieve its purpose. Explaining the ethos of modern trend in social legislation, Hon'ble Supreme Court in **Badshah v. Urmila Badshah Godse, AIR 2014 SC 869** observed as follows:-

“...Purposive interpretation needs to be given to the provisions of S. 125 CRPC. While dealing with the application of destitute wife or hapless children or parents under this provision, the court is dealing with the marginalized sections of the society. The purpose is achieve 'Social Justice' which is the constitutional vision, enshrined in the preamble to the Constitution of India, Preamble to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specially highlights achieving their social justice. Therefore, it becomes the bounden duty of the Courts to advance the cause of social justice. While giving interpretation to a particular provision, the Court is supposed to bridge the gap between the law and society.”

Serious allegations have been levelled against the petitioner.

Perusal of the record transpires that there is ample evidence of domestic violence. Even non-payment of maintenance also amounts to cruelty.

In this view of matter, finding no merit in the instant petition the same is hereby dismissed.

**(RAJ SHEKHAR ATTRI)
JUDGE**

07.03.2019

mamta

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No