

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

Crl. Misc. 7772 of 2020 in/and
CRR (F) No. 251 of 2020 (O&M)
Date of decision: 2.3.2020

Ramesh Kumar

...Petitioner

Versus

Komal Kamboj

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Mandeep Singh Khillan, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

Crl. Misc. 7772 of 2020

This is an application that has been filed for condonation of 79 days' delay in filing the revision.

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the revision is condoned.

The application stands disposed of.

Main case

The petitioner herein is aggrieved against the order dated 5.9.2019 passed by the Additional Principal Judge (Family Court), Karnal, whereby he has been directed to pay a sum of ₹4,000/- per month to the respondent as maintenance from the date of passing of the order, apart from litigation expenses.

In brief, the facts are that a marriage was solemnized between the petitioner and respondent—Komal Kamboj on 5.12.2007 as per Hindu

rites and ceremonies. However, she was ill treated from the very first day. The respondent—wife claimed that she was pregnant, but on account of ill treatment meted out to her, the child in her womb did not survive and was aborted on 25.7.2008. No child was born out of this wedlock. There were other allegations of mal-treatment and ultimately the respondent—wife was thrown out of her matrimonial home. It was also pleaded that the petitioner herein had contracted second marriage with one Ritu who has given birth to a child. A petition under Section 125 of the Code of Criminal Procedure was filed claiming maintenance on the ground that she was destitute and unable to maintain herself. It was claimed that her husband—petitioner herein was working as Laboratory Assistant/Technician in Toxicology Division, Directorate Forensic Science Laboratory, Haryana, Madhuban, Karnal and getting salary of ₹30,000/- per month. Resultantly, she claimed maintenance at the rate of ₹15,000/- per month.

Notice was issued to the petitioner herein, who appeared and filed his written statement. However, on 5.7.2019, he did not turn up and was proceeded ex-parte. The respondent—wife stepped into the witness box and tendered her affidavit Ex. PW1/A and thereafter her evidence was closed, after tendering documents i.e. RTI information available as Ex. P.1 copy of jamabandi for the year 2013-2014, Ex. P.2 copies of termination of her service etc.

The Family Court based on unrebutted evidence of the respondent held that she is entitled to maintenance and taking the petitioner income to be ₹35,400/- per month, besides agricultural income of ₹2 lakhs per annum, held that the respondent would be entitled to a sum of ₹4,000/-

per month as maintenance. Aggrieved against the said order, the instant revision has been filed, while contending that the order as passed is unsustainable as the court below has failed to consider that the respondent-wife left the company of the petitioner of her own free will and did not come back to her matrimonial home. It is also contended that the court below failed to consider that at the time the respondent left the company of the petitioner took enough valuable articles like gold and cash, which are sufficient enough to sustain her expenses, while also contending that the impugned order is based on surmises and conjectures and as such liable to be set aside.

I have heard learned counsel for the petitioner and find that there is no ground to interfere as the judgment is well reasoned. The petitioner for the reasons best known to him did not put in appearance and was proceeded ex-parte and based on evidence led by the respondent, the court below allowed maintenance at the rate of ₹4,000/- per month to the respondent. It is an undisputed fact that the petitioner herein is working as Laboratory Assistant/Technician in Toxicology Division, Directorate Forensic Science Laboratory, Haryana, Madhuban and getting a salary of ₹35,400/- per month. Apart from that, as per the oral evidence, the petitioner has agricultural income of ₹2 lakhs. This evidence has gone unrebutted. The allegations that the respondent had been subjected to cruelty and that she had been thrown out of her matrimonial home too goes unrebutted and therefore, in case she left the matrimonial home, as alleged by the learned counsel for the petitioner, she left with sufficient cause. Therefore, the plea, as set up that the respondent—wife would not be entitled to maintenance by

relying Section 125 (4) of the Code of Criminal Procedure is not sustainable. The quantum of maintenance as fixed is not excessive as claimed by the petitioner herein. It cannot lost sight of the fact that Section 125 of the Code of Criminal Procedure was enacted as a social measure to put an end to the agony, anguish, financial suffering of a woman who left her matrimonial home for no fault of hers and who does not have any sufficient means to support herself, so that some suitable arrangements can be made by the Court for her to sustain herself and also her children. These proceedings are in the form of summary in nature and the matter has to be decided on the basis of some averments/pleadings/documents supported by the parties.

For the reasons afore-stated, the instant revision is dismissed.

2.3.2020
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No