

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

CRR (F) No.421 of 2019.
Decided on:- January 22, 2020.

Radhey Shyam.

.....Petitioner.

Versus

Smt. Janki.

.....Respondent.

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

Present:- Mr. Sumit Sharma, Advocate
for the petitioner.

Mr. Birinder Singh Khehar, Advocate
for the respondent.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present criminal revision against the judgment dated 10.05.2019 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.1,000/- to Rs.5,000/- per month from the date of filing of such petition.

Learned counsel for the petitioner has argued that the marriage between the parties was solemnised on 26.12.1987. It was the second marriage of the respondent. The respondent-wife has a daughter, namely,

Durgesh from her earlier marriage, who was five years of age at that time. One son, namely, Vipin was born from this wedlock on 12.12.1989. Now, both the children are major and married and are living happily in their married life.

He has further argued that in the month of July, 2003, the petitioner was ousted from his house by the respondent-wife and since then, he has been residing separately from the respondent-wise and used to work in a shop for cleaning, dusting etc. The petitioner had his share in ancestral house, which has already been sold by the petitioner and his family members in the year 2010. The petitioner has given the entire sale consideration of his share amounting to Rs.6,11,656/- to the respondent-wife as per compromise dated 15.09.2018 (Annexure P-2). While enhancing the maintenance from Rs.1,000/- per month to Rs.5,000/- per month, the family Court has not appreciated the facts and circumstances of the case and the material available on record.

Learned counsel for the respondent-wife has argued that the petitioner had left the respondent and her children in the month of July, 2003 and it is the respondent-wife, who brought them up and solemnised their marriage. There is consistent rise in the cost of living and the respondent is an old lady of about 60 years of age and is suffering from different ailments.

I have heard learned counsel for the petitioner.

Vide previous order dated 31.10.2019, the parties were directed to remain present in Court. Though the respondent-wife is present in person, but the petitioner-husband is not present in Court. Learned counsel for the

petitioner states that on account of lack of communication, the petitioner could not be informed about the previous order.

Record reveals that initially, the respondent-wife had filed a petition under Section 125 Cr.PC for grant of maintenance on 21.11.2003, which was allowed by learned Judicial Magistrate 1st Class, Bhiwani vide judgment dated 28.07.2008 and the respondent-wife was awarded maintenance to the tune of Rs.1,000/- per month from the date of filing of the petition. This amount was subsequently enhanced to Rs.5,000/- per month by the family Court vide impugned judgment dated 10.05.2019 i.e. after about 11 years of the passing of judgment dated 28.07.2008 by learned Magistrate in the petition under Section 125 Cr.P.C.

Considering the fact that the respondent-wife is an old lady of about 60 years of age and is not keeping well, this Court finds that the enhanced maintenance is not on higher side particularly when the cost of living is increasing day by day. Even otherwise, the petitioner had left the respondent and her children in the month of July, 2003 and it is the respondent, who has brought up the children and solemnised their marriage.

The argument of learned counsel for the petitioner that the petitioner has given the entire sale consideration of the property amounting to Rs.6,11,656/- to the respondent-wife as per the compromise is of no relevance as the petitioner is staying away from the family for the last about 20 years and it is thereafter, the respondent-wife had arranged the marriage of her children. Even otherwise, it is the legal obligation of the petitioner to maintain his wife and the enhanced maintenance is a bare minimum to survive.

Accordingly, affirming the impugned judgment dated 10.05.2019 passed by the family Court, present criminal revision, being devoid of any merit, is dismissed.

January 22, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No