

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

CRR(F)-1104-2019 (O&M)

Decided on : 06.01.2020

Sakir

..... Petitioner

Versus

Nusrat and anr.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Tushar Gautam, Advocate
for the petitioner.

Manjari Nehru Kaul, J.

Instant criminal revision petition has been preferred by the petitioner – Sakir against the impugned judgment dated 23.10.2019 passed by Family Court, Mewat vide which he was directed to pay a sum of Rs.4,000/- and Rs.1,000/- per month as maintenance to respondents No.1 and 2 respectively.

Few facts necessary for adjudication of the instant petition as pleaded in the petition filed under Section 125 Cr.PC by the respondent-wife before the learned Court below may be noticed.

Marriage between the petitioner and respondent No.1 – Nusrat was solemnized on 15.06.2014 as per Muslim rites and ceremonies. Out of the said wedlock, one daughter namely Romana was born. It was alleged that the petitioner-husband and his family members were dissatisfied with the dowry given to respondent No.1 at the time of marriage for which she would be frequently harassed. Further, there would be continuous demands by the petitioner-husband for a car. On 05.08.2016, respondent No.1-wife was physically assaulted by the petitioner-husband and his family and

thrown out from the matrimonial home along with her minor daughter. Ever since then, she had been living in her parental home at the mercy of her parents. All efforts made for a reconciliation between the parties had failed. On one occasion, it was decided in the panchayat, which had been convened to bring about a reconciliation, that in the eventuality of Rs.11 lakhs being paid to the respondents, the marriage between the parties would be dissolved. However, a cheque of Rs.2 lakhs, which was given in pursuance to the settlement arrived at between the parties, turned out to be a bogus cheque. When respondent No.1 and her family complained against the same to the petitioner, they were threatened with dire consequences. It was pleaded that since respondent No.1-wife had no source of income to maintain herself and her minor daughter, the petitioner-husband be directed to pay a maintenance of Rs.10,000/- per month since he was running a grocery shop as well as was in the business of selling milk from which his income was about Rs.3-4 lakhs per annum.

Per contra, the petitioner-husband in his written statement filed before the Court below, refuted and denied the allegations of respondent No.1-wife. He submitted that he was a poor man and not in a position to pay the maintenance asked for by the respondent. The petitioner-husband was proceeded against ex parte vide order dated 19.07.2019 as he failed to appear nor anyone appeared on his behalf before the Court below during the recording of the evidence.

On appraisal of all the material and evidence on record, Family Court concluded that there was no cogent and convincing documentary evidence on record to prove the income of the petitioner and hence, by

taking him to be a labourer/daily wager, his income was assessed between Rs.15-20,000/- per month. Respondents No.1 and 2 were held entitled to maintenance @ Rs.4,000/- and Rs.1,000/- per month respectively.

Learned counsel for the petitioner reiterated and maintained the same stand as taken before the Court below by urging that he is still willing and ready to keep respondent No.1-wife and his minor daughter in the matrimonial home. It was further urged that the maintenance awarded was on the higher side as he had no fixed income. It was thus, prayed that the amount awarded as interim maintenance be scaled down accordingly.

I have heard learned counsel for the petitioner and perused the impugned order passed by the court below.

On reappraisal of the impugned order passed by the Family Court, it has rightly been concluded that the net income of the petitioner-husband as a labourer would be in the range of Rs.15-20,000/- per month. Admittedly, respondent No.1-wife is not gainfully employed and has no independent source of income. She and her minor daughter have been living at the mercy of her parents. It need not be over-emphasised that it is the bounden duty and legal obligation of a husband to maintain his wife and children. He cannot shy away from his statutory obligation of maintaining both of them. The amount of maintenance assessed by the Family Court is reasonable, which does not call for any interference.

Accordingly, the present petition stands dismissed.

06.01.2020

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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No