

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR (F)-405-2021 (O&M)

Date of Decision: November 02, 2021

Vikas Kumar

... Petitioner

Versus

Pooja and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. P.R. Yadav, Advocate,
for the petitioner.

Vivek Puri, J.

The petitioner has challenged the legality and validity of the impugned order dated 08.04.2021 passed by the learned Additional Principal Judge, Family Court, Gurugram vide which interim maintenance to the tune of Rs. 3,000/- each per month has been awarded to the respondents no.1 and 2.

Briefly, the respondents have instituted an application under Section 125 Cr.P.C. and in the said proceedings, they have asserted their claim for interim maintenance. The allegation of the respondents is to the effect that the marriage of the petitioner was solemnized with respondent no.1 on 13.11.2017 and respondent no.2 was born from the wedlock. The

petitioner is working with Suzuki Motor Cycle and is getting salary of Rs.40,000/- per month. The petitioner is also having sufficient rental income, residing in his own house and has no other liability.

The petitioner has controverted the allegations of the respondents and has denied the allegations with regard to his avocation and income. It has been alleged that respondent no.1 is qualified JBT, doing tuition work and is earning Rs.10,000/- per month. The petitioner is working with M/s Simran Enterprises, getting a salary of Rs. 8721/- per month and is living in a rented accommodation.

I have heard learned counsel for the petitioner.

It has been contended by the learned counsel for the petitioner that respondent no.1 is a literate lady and earning her livelihood by doing tuition work. The petitioner is only earning Rs.8721/- per month and is paying rent to the extent of Rs.2200/- per month. As such, the interim maintenance on higher side has been awarded in the instant case.

The fact of marriage between the petitioner and respondent no.1 and the birth of the minor respondent no.2 from the wedlock has not been disputed. Unfortunately, the matrimonial dispute has cropped up between the parties and they are residing separate from each other. The respondents have instituted an application under Section 125 Cr.P.C. for enforcement of their claim for maintenance and during the course of the proceedings, interim maintenance has been awarded.

Both the parties have put-forth rival allegations against each other in the application and the reply submitted in the Court below. The respondents have put-forth the allegations of mal-treatment, refusal and neglect on the part of the petitioner to maintain them. The allegations have been refuted by the petitioner. The genuineness of rival allegations as put-forth by both the parties is to be adjudicated after the same are substantiated with the evidence during the course of the proceedings before the Court below.

The petitioner has disputed the fact with regard to his avocation and income. The version of the respondents is to the effect that he is drawing a salary of Rs.40,000/- per month. However, it has been observed in the impugned order that the respondent while present in the Court admitted the fact that he was earning Rs.10,000/- per month. Even in the affidavit submitted by the petitioner, his monthly income has been mentioned as Rs.10,000/-. As such, there cannot be any error on the part of the Court below in concluding that the monthly income of the petitioner is to the tune of Rs.10,000/-.

The petitioner has alleged that respondent no.1 is doing tuition work and he is residing in a rental house. Significantly, the bald assertion of the petitioner is not supported with any material to indicate that respondent no.1 is doing tuition work or earning anything. Even no document to indicate the residence of the petitioner in a rented accommodation or payment of any rent to the landlord has been put-forth.

In such circumstances, the amount of interim maintenance as awarded in terms of the impugned order dated 08.04.2021 cannot be termed to be excessive or not commensurate with the income of the petitioner.

As such, the impugned order dated 08.04.2021 does not suffer from any illegality or irregularity, which may warrant any interference by this Court.

Accordingly, present petition is dismissed.

November 02, 2021
vkd

(Vivek Puri)
Judge

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No