

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

110

CRR (F)-510-2021

Date of decision :14.12.2021.

Surjeet Kumar

...Petitioner

Versus

Pooja

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

SUVIR SEHGAL, J.

Heard through video conferencing.

The present revision petition has been preferred under Section 401 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') impugning order dated 24.11.2021 passed by the learned Family Court, Pathankot, in case No.126 of 31.05.2019, whereby the learned Court has awarded monthly amount of Rs.4000/- towards maintenance and lumpsum amount of Rs.5500/- as litigation expenses to the respondent-wife under Section 125 of the Code.

In brief, the facts leading to the filing of the petition are that the petitioner and respondent were married on 03.02.2017 at Pathankot and after marriage, the petitioner and his family members expected motorcycle and gold items in dowry. They physically assaulted the respondent a number of times.

Under pressure of the petitioner and his family, the father of the respondent

took a loan and gave them Rs.1 lac in instalments on different dates. However,

there was no improvement in the behaviour of the petitioner and his family members and on 08.09.2018, the respondent was mercilessly beaten and turned out from her matrimonial home. Despite attempts by her parents, she was not rehabilitated and due to the humiliation and pressure, the respondent became diabetic. She received summons from the Court in a divorce petition preferred by the petitioner. As she had no source of income and the petitioner was earning Rs.1 lac per month by working as a property commission agent and a loan manager with HDFC Bank, the respondent filed a petition under Section 125 of the Code, which is pending. By virtue of the impugned order, the Court below has awarded her interim maintenance.

Counsel for the petitioner has contended that the respondent had left the matrimonial home on her own as she was not happy with the marriage and used to stay out of the house most of the time. He urges that she used to misbehave with the petitioner and his family members and was a patient of high blood sugar, as a result of which, she could not conceive. He submits that the interim maintenance awarded by the Court below is on the higher side as the petitioner is earning Rs.7,849/- per month by working on ad hoc basis and the respondent, who is working, has a sufficient income to take care of herself.

Counsel for the petitioner has been heard.

There are allegations and counter allegations regarding the reason as to why the respondent left her matrimonial home, but without going into the same, this Court is of the view that it is the obligation of the husband to maintain his wife, moreso, when she is undergoing treatment and is on medication. Though it has been alleged that the respondent is working as a school teacher and reference has been made to her statement, Annexure P-1, recorded before the police in March, 2019, prior to the institution of the petition under Section 125 of the Code, yet in her affidavit filed before the Family

Court during the pendency of the maintenance petition, she has categorically

stated that she is unemployed and does not have any source of income. In these circumstances, it was for the petitioner to show that respondent was employed and drawing a salary after she instituted the present petition, but he has failed to do so. It has come on the record that the petitioner is employed but his salary certificate has been disbelieved as he has claimed to be drawing a meagre salary. On the basis of presumption, the Family Court has come to the conclusion that the monthly salary of the petitioner cannot be less than Rs.12,000/-, which is the bare minimum income of a daily wager and, therefore, the award of interim maintenance of Rs.4000/- per month, besides litigation expenses, in favour of the respondent-wife cannot be faulted with.

There is no illegality or irregularity in the reasoning recorded by the Family Court. The petition is accordingly dismissed.

14.12.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No