

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(115)

CRR(F)-49-2022(O&M)
Date of Decision: 13.07.2022

Sushil Kumar @ Shally

--Petitioner

Versus

Anita Rani & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Ankit Bishnoi, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The petitioner has approached this court by way of filing present petition impugning the order dated 22.10.2021 passed by the learned Family Court, Bathinda, whereby interim maintenance @ Rs.4000/- per month to the respondent no.1 wife and @ Rs.5000/- per month to the respondent no.2-daughter, has been granted.

Learned counsel for the petitioner contends that the learned Family Court has ignored the facts and circumstances of the case and the evidence adduced on record and thus passed the impugned order, which is unsustainable in the eyes of law. He submits that up to July, 2020 the petitioner and respondent-wife were residing together but the respondent wife went along with his brother on the pretext of attending the marriage of some relative, however, thereafter she did not return to the matrimonial home. He submits that respondent no.1 has left the matrimonial home without any rhyme and reason and with her own free will and hence under the provisions of Section 125 Cr.P.C she is not entitled for the maintenance. Counsel submits that the learned Family Court has fallen in error in not appreciating that the respondent wife is well qualified and employed as a

private teacher. He submits that besides the job she is taking tuitions and has a good earning from the same. However, the Family Court failed to appreciate the same. Counsel submits that the respondent wife was not inclined to live with the family members of the petitioner and she kept pressurizing him to live separately from them. As the petitioner did not agree to the same hence she deserted the petitioner of her own free will. He submits that the petitioner is 12th pass and employed in a garment shop getting a salary of Rs.7,000/- per month and therefore the interim maintenance granted is against the settled principles of law. Counsel submits that in view of the overwhelming circumstances of the case the impugned order dated 22.10.2021 deserves to be set aside.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

It is apparent from the record that the relationship between the petitioner and respondent is not in dispute. The main contention of the learned counsel for the petitioner is that the respondent wife is well educated and she is earning well from her job as well as from the tuitions. There is nothing on record to substantiate the same. Even if the wife is well educated and earning well that cannot be taken as a punishment for the wife exonerating the husband from his legal and moral responsibilities. The provisions of section 125 Cr.P.C are for providing the immediate maintenance to the aggrieved wife, children or parents as the case may be. Time and again the Hon'ble Supreme Court has held that the purpose of enacting the provisions of Section 125 Cr.P.C is for preventing the vagrancies and destitution. It is also held that the wife is entitled for the

same level of living standard which she was enjoying before her separation from the husband.

In plethora of judgements, it has been held by the Hon'ble Supreme Court that the husband is not only legally but morally also bound to discharge his responsibility for providing maintenance to his wife. The Hon'ble Supreme Court in *Rajnish V. Neha, (2021) 2 SCC 324* has already settled the law. The petitioner is an able bodied person and cannot escape the responsibility of providing maintenance to his estranged wife. There is nothing on record to show that the respondent wife has deserted the matrimonial home of her own will. Learned Family Court has awarded a maintenance of Rs.9000/- per month to the respondent wife and minor daughter keeping in view all the facts and circumstances as also the evidence adduced on record. This court finds no infirmity in the conclusion arrived at by the learned Family Court. The maintenance of Rs.9000/- per month granted to the respondent wife and minor daughter cannot be said to be on the higher side. Accordingly, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

13.07.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No