

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(114)

CRR(F)-96-2022

Date of Decision: 22.11.2022

Rajender Kumar

--Petitioner

Versus

Kaushalya Devi & others

--Respondents

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

Present:- Mr. Ajay Chaudhary, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The petitioner has approached this court by way of filing present petition impugning the order dated 3.1.2022 passed by the learned Family Court, Fatehabad, whereby interim maintenance @ Rs.16,000/- per month has been granted to the respondents. (Rs.8,000/- to respondent no.1 wife and Rs.4,000/- each to respondents no.3 and 4. Respondent no.2 was held entitled to the maintenance @ Rs.4,000/- per month from 13.8.2020 to 25.10.2020 i.e. till the date of her marriage).

As per facts of the case, the marriage of the petitioner took place with the respondent no.1 and they were blessed with three children i.e. two daughters and one son. Thereafter, on account of the alleged illicit relations of the petitioner, a matrimonial discord took place between husband and wife. The petitioner husband deserted the wife and the minor children and refused to pay any maintenance. The respondent wife being without any source of income and being totally dependent on the income of her husband approached the court by way of filing a petition under section 125 Cr.P.C praying for grant of maintenance.

Learned Family Court issued notice to the petitioner husband and after hearing both the sides granted a total interim maintenance of Rs.16,000 per month to the respondents as mentioned herein above.

Learned counsel for the petitioner has vehemently contended that the learned Family Court has fallen in error in granting the maintenance as mentioned above. He submits that the salary of the petitioner is Rs.42,361/- out of which he is paying the rent @ Rs.3,000/- per month, the loan installment of Rs.32,861/- and the installment of the vehicle loan of Rs.12,000/-. Counsel submits that the entire salary of the petitioner is being paid towards the EMIs. He has submitted that the respondent wife is earning more than Rs.25,000/- per month. He submits that the respondent wife has deserted the petitioner without any rhyme and reason and with her own free will and hence under section 125(4) Cr.P.C she is not entitled for the maintenance as granted. He submits that the view taken by the learned Family Court in granting maintenance of Rs.16,000/- per month to the respondents is totally unsustainable in the eyes of law and the same deserves to be set aside.

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

At the time of the first hearing of this case petitioner was directed by this court vide order dated 11.2.2022 to file an affidavit disclosing the amount of maintenance he has paid and the outstanding arrears etc. However, despite repeated opportunities granted to the petitioner, the same has not been filed. From the perusal of the record it is apparent that except the overall arguments raised by counsel, there is

nothing on record to show that the respondent wife has any independent source of income. As per record of the case, gross salary of the petitioner is Rs.46,750/- per month and the net carry home salary is Rs.42,361/- as he is employed as a Driver in Haryana Roadways.

The contentions raised before this court regarding payment of loans etc. cannot be a ground for rejecting the maintenance claimed by the respondents.

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 and children. 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.16,000/- per month to the respondents 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.16,000/- per month granted to the respondents cannot be said to be on the higher side. The petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

22.11.2022

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