

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

(113)

CRR(F)-258-2020 (O&M)

Date of decision :-21.12.2022

Ravinder Alias Rocky

...Petitioner

Versus

Sonia and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. A.B.S.Nain, Advocate for
Mr. Vikrant Hooda, Advocate for the petitioner.

...

SUVIR SEHGAL, J (ORAL)

By way of present criminal revision petition filed under Section 401 of the Code of Criminal Procedure, 1973 (for short "the Code"), petitioner has approached this Court seeking setting aside of order dated 08.11.2019 passed by learned Additional Principal Judge, Family Court, Rohtak, whereby, petition seeking grant of maintenance filed by the respondents under Section 125 of the Code, has been partly accepted and the petitioner has been directed to pay monthly maintenance of Rs.4000/- and Rs.3000/- to respondents No.1 and 2, respectively, from the date of order, besides, litigation expenses of Rs.11,000/-.

Facts leading to the filing of the petition are that the petitioner was married to respondent No.1 on 22.11.2008 and a daughter-respondent No.2 was born, who is aged about 5 years. In the petition, Annexure P-1, filed by the respondents, it has been averred that the petitioner and his parents have been harassing respondent

No.1 despite the fact that sufficient amount was spent at the time of marriage. Her parents showered her with gifts and dowry articles, but her in-laws were not satisfied. Petitioner, who runs a beauty parlour in the State of Uttar Pradesh, remains out of station most of the time and whenever he comes home, he ill-treats her under the influence of liquor. It has been claimed that he has an extra marital affair and he got his paramour home in January 2015. A panchayat was convened, but the situation did not improve. In March 2015, respondent No.1 was physically assaulted and turned out of the matrimonial home along with her daughter-respondent No.2. Since she is unable to maintain herself, she has claimed a monthly maintenance of Rs.20,000/- and litigation expenses from the petitioner, who is earning Rs.40,000/- per month. Claim has been contested by the petitioner by filing response, whereby, allegations of cruelty and harassment had been denied. It has been submitted that respondent No.1 has been pressurizing the petitioner that he should insist on a share in the family property and she left the matrimonial home while threatening the petitioner that she will teach him a lesson. She took along all the dowry articles as well as gold and silver jewellery and has not carried out her household responsibilities. Petitioner claims that he is a daily wage worker. On the basis of the material brought before it, Family Court vide order impugned herein, awarded maintenance to the respondents as has been noticed above.

I have heard the arguments addressed by the counsel for the petitioner.

Petitioner is a young man of 34 years of age, who cannot shirk from the responsibility as a husband as well as a father of

financially supporting his wife and child, even though, they are not staying with him and the relations between them are strained. By merely pleading that respondent No.1 that is a graduate, working as a teacher and earning income from tuition, he cannot absolve himself from his marital obligation. Petitioner has failed to refer to any material on the record to substantiate his stand. Even if, respondent No.1 is educated that does not defeat her right to claim maintenance, more particularly, when she has a young school going daughter to take care of. It has been held by the Supreme Court in *Manish Jain Versus Akansha Jain (2017) 15 SCC 801* that the educational qualification of the wife and her capacity to make a living cannot be a ground to deny her claim of maintenance. Even though the petitioner has claimed that respondent No.1 left the matrimonial home of her own, yet he has failed to prove this fact and did not lead any evidence.

Keeping in view the totality of the facts and circumstances, this Court is of the view that the claim of the respondents is justified as respondent No.1 does not have any independant source of income. The award of Rs.7000/- to the respondents, which barely works out to a little over of Rs.200/- per day, cannot be said to be excessive or unreasonable.

Finding no merit, petition as well as application seeking condonation of delay, are hereby dismissed.

(SUVIR SEHGAL)
JUDGE

21.12.2022
Pardeep

Whether speaking/reasoned	Yes
Whether reportable	Yes