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

CRR(F)-338-2020

Date of Decision: September 22, 2022

Chamanjeet @ Chamandeep Singh

.....Petitioner

Versus

Amarjeet Kaur and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Lalit K.Gupta, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

The petitioner has approached this Court impugning order dated 10.01.2013, passed by learned District Judge (Family Court), Faridabad, whereby the petitioner was proceeded ex parte and order dated 04.07.2013, whereby the maintenance petition filed under Section 125 Cr.P.C. by the respondent-wife and the minor has been allowed by awarding them maintenance @ Rs.2,000/- per month to the wife and @ Rs.1,000/- per month to the minor.

It has been contended by learned counsel for the petitioner that the petitioner was married with respondent No.1 on 13.03.2009. Thereafter, due to temperamental differences, the matrimonial discord took place and the respondent-wife filed an FIR No.56, dated 27.10.2012 under Sections 323, 342, 379 and 307 IPC. She also filed a petition under Section 125 Cr.P.C. praying for grant of maintenance. He has submitted that the valid service was never effected upon the petitioner and thus, he remained totally unaware of the proceedings pending in the petition filed under Section 125

Cr.P.C. and despite that learned Family Court proceeded *ex parte* against the petitioner. He has submitted that the proceedings in the maintenance petition commenced without serving and hearing the petitioner and *ex parte* judgment dated 04.07.2013 was passed by the learned District Judge without affording any opportunity of hearing to the petitioner. He further submits that subsequent to the passing of the order by the learned Family Court, respondent No.1 on 11.10.2015 entered into a compromise with the petitioner and both of them started living happily as husband and wife. He has submitted that the compromise arrived at between both of them has also been placed on record. He has further submitted that again some matrimonial dispute took place between both the husband and the wife, however, the same could be resolved with the intervention of the respectables and the respondent-wife gave an affidavit dated 21.09.2016. He has submitted that despite all these, the respondent-wife invoked the *ex parte* order dated 04.07.2013 and filed an execution petition before the learned Additional Principal Judge (Family Court), Faridabad. He submits that the petitioner condoned the past twice and both the husband and wife started residing together, however, the respondent-wife intentionally filed the execution petition only to harass the petitioner. Counsel for the petitioner has submitted that proper procedure was never adopted by the Court for serving the notice upon the petitioner and thus, *ex parte* proceedings were totally unsustainable in the eyes of law. He submits that wife is living separately without any sufficient cause and thus she is not entitled for the maintenance as granted by the learned Family Court and hence, the impugned orders deserve to be set aside.

Heard.

Relationship between the petitioner and the respondents is not in dispute. The matrimonial dispute took place between the petitioner and the respondent-wife on account of which she filed the above-mentioned FIR No.56 dated 27.10.2012 and thereafter filed a petition for grant of maintenance as well. Record of the case would reveal that the learned Family Court proceeded *ex parte* against the petitioner vide order dated 10.01.2013. It has been observed by the learned Family Court that service was properly effected upon the petitioner. Report was received that he refused to accept the notice and hence the Court was left with no other option than to proceed *ex parte*. The contention raised by the counsel for the petitioner regarding the compromise arrived at between the respondent-wife is of no consequence as the Family Court had already granted the maintenance to the respondent-wife vide order dated 04.07.2013. The petitioner is an able bodied person. The provisions of Section 125 Cr.P.C. are for preventing destitution and vagrancy. As per the law settled by Hon'ble Supreme Court in plethora of judgments, the husband is legally and morally responsible to look after his wife. Record of the case would show that the petitioner has intentionally refused to accept the notice served upon him by the Court. The proceedings filed under Section 125 Cr.P.C. are summary in nature and has been provided to provide a speedy remedy to the aggrieved wife and minor. As per the law settled by Hon'ble Supreme Court in case of **Rajnesh Vs. Neha**, 2021(2) SCC 324, the wife has a right of living of same standard, which she was enjoying while living with the husband.

Keeping in view the facts and circumstance of the case, the

learned Family Court has granted the maintenance of Rs.3,000/- (in total)

per month to the respondents, which cannot be said to be on the higher side.

In the overall facts and circumstances of the present case, this Court finds no infirmity in the orders passed by the learned Family Court. Thus, the petition being devoid of any merit, is hereby dismissed.

September 22, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |