

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

CRR(F)-359-2020

Date of Decision: 19.04.2022

Kapil

... Petitioner

v/s

Varsha

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Anuj Garg, Advocate for the petitioner.

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VIVEK PURI, J. (ORAL)

The petitioner has impugned the judgment dated 19.12.2019 passed by the Court of learned Principal Judge, Family Court, Palwal vide which maintenance @ Rs.5,000/- p.m. has been awarded in favour of the respondent in the proceedings under Section 125 of Code of Criminal Procedure (for short 'the Code').

The respondent being wife of the petitioner had instituted the petition under Section 125 of the Code for enforcement of her claim for maintenance alleging that the marriage was solemnized on 26.04.2012. She was maltreated and given beatings on account of demand of dowry and turned out of the matrimonial house. The petitioner is working as Taxi driver at Delhi Airport and earning not less than Rs. 50,000/- p.m. The respondent is a poor lady and has no source of income.

The petitioner had resisted the petition alleging that the respondent herself left the matrimonial house along with the entire gold/silver ornaments and a cash of Rs.40,000/- without any rhyme or reason. The petitioner is having no source of income and is jobless. The

respondent is doing the work of stitching and tailoring and earning Rs. 12,000/- p.m.

Both the parties stepped into the witness box in support of the rival allegations. In terms of the impugned judgment maintenance @ Rs. 5,000/- p.m. was awarded in favour of the respondent.

It has been mainly contended by learned counsel for the petitioner that during the course of proceedings in the Court below, interim maintenance @ Rs.3,000/- p.m. was awarded. The petitioner is ready and willing to pay the interim maintenance @ Rs.3,000/- p.m. The petitioner is earning a meagre amount of Rs.8,000/- to Rs.10,000/- p.m. on commission basis as and when he gets work.

Merely because the respondent was granted interim maintenance @ Rs.3,000/- p.m. cannot be termed to be a circumstance to decline the claim of the respondent for maintenance at a higher rate at the final stage after the parties had substantiated the allegations with evidence. The learned Family Court had evaluated the cross-examination of the petitioner, wherein he had admitted the fact that he works in a Company on commission basis and earns Rs. 8,000/- to Rs.10,000/- p.m. The petitioner had even gone to the extent of saying that the respondent was having illicit relations with many persons and earning Rs. 10,000/- to 15,000/- per day. As per the pleadings of the petitioner, the respondent is doing the work of stitching and tailoring and earning Rs.12,000/- p.m. It had also emerged in the cross-examination of the respondent that at the earlier instance he was doing job in India Prozone as Team Leader and subsequently, he was doing the work of to-let business.

The relationship between the parties has not been disputed.

Admittedly, no child was born from the wedlock.

Section 125 of the Code is meant to achieve social purpose and its object is to prevent vagrancy and destitution. It is a piece of social legislature which provides for summary and speedy relief by way of maintenance to the wife who is unable to maintain herself. It becomes hard to believe that as per the version of the petitioner, the respondent is having handsome income and in such circumstances, the petitioner will not be engaged in any avocation and not earning anything.

On a query by the Court, learned counsel for the petitioner has specifically and categorically stated that the order was passed by the Family Court as back as on 19.12.2019 and thereafter, he has not paid even a single penny on account of maintenance due payable to the respondent. The perusal of the judgment of the Court below is indicative of the fact that the petitioner is engaged in the occupation which is much better than a casual labourer. There is nothing to suggest that the petitioner is not an able-bodied person and in such circumstances, it can be safely assumed that the petitioner must be earning more than Rs. 15,000/- p.m. Consequently, the amount of maintenance awarded in favour of the respondent cannot be termed to be on a higher side or excessive. The order passed by the Court below does not call for any interference by this Court.

Dismissed.

19.04.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No