

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

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**CRR(F) No.330 of 2022
Date of decision:28.04.2022**

John Nair

... Petitioner

Vs.

Sunaina and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Hitesh Chopra, Advocate
for the petitioner.

SUVIR SEHGAL J.

Challenge in the instant revision petition filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”) is to order dated 09.03.2022 passed by learned Principal Judge, Family Court, Gurdaspur, whereby, interim monthly maintenance of Rs.2,000/- has been awarded to respondent No.1 and Rs.1,000/- to respondent No.2 from the date of filing of the application, besides litigation expenses.

In brief, facts leading to filing of the instant petition are that respondent No.1 was married to the petitioner according to Christian rites and customs and respondent No.2, a male child, was born out of the wedlock. At the time of marriage, huge amount was spent by the parents of respondent No.1 and the marriage ceremonies were conducted with great pomp and show. Sufficient dowry articles, gold ornaments etc. were given to the petitioner and his family members, who, were however, not satisfied with the same and they have been harassing respondent No.1 and insisting on more dowry. In particular, reference has been made to demand of cash of Rs.2.00 lacs and a motorcycle. On 19.04.2021, the petitioner and his family members mercilessly assaulted respondent No.1 and locked her in a room.

However, she alongwith her minor child managed to escape and came to her paternal home. She approached the Family Court, Gurdaspur by filing a petition under Section 125 of the Code, claiming maintenance allowance from the petitioner for herself and her minor child as she has no source of income and is unemployed, whereas, it has been claimed that the petitioner is doing a private job in JMC Company and drawing salary of Rs.25,000/- per month. Respondent No.1 claimed monthly maintenance of Rs.15,000/- and filed a separate application for interim maintenance. On appearance, the petitioner contested the application. While admitting the factum of marriage, he has denied the other allegations and submitted that respondent No.1 withdrew from the society of the petitioner. He claimed that he is drawing monthly salary as Sweeper from an NGO. On the basis of the affidavits filed by the parties, the Family Court, vide order impugned herein, granted interim maintenance as noticed above.

Heard counsel for the petitioner.

There is no dispute regarding the marital ties between the petitioner and respondent No.1 and birth of the child-respondent No.2. Although the parties have levelled allegations and counter-allegations against each other, but this is not the stage, nor does the Court intend to examine the same. Suffice it to notice that petitioner has filed his affidavit (Annexure P-3), giving the details of his income, expenditure, etc., wherein, he has claimed that his monthly expenditure is of Rs.6,000/- including the expenditure on his dependent parents, etc., whereas, his income is Rs.6,975/- per month. However, the affidavit is not in consonance with the statement of the bank account (Annexure P-5), which shows that besides the salary claimed to be drawn by the petitioner, he has other sources of income

also. There are regular credit entries in his bank account and the balance in his bank account has been varying between Rs.33,000/- to Rs.80,000/-. He is owner of two wheeler as is apparent from the certificate of registration (Annexure P-6). The Court can safely assume that he has reasonable earnings. Being an able-bodied person, it is his moral duty and obligation to maintain his wife and minor child. He cannot absolve himself from the same.

In view of the above facts and circumstances, this Court is of the opinion that the interim monthly maintenance awarded by the Court below is just and fair. There is no illegality and perversity in the order of the Family Court, Gurdaspur and it does not call for any interference in the exercise of revisional powers by this Court.

Petition is dismissed.

Any observation made hereinabove shall not bind the Family Court, Gurdaspur, which shall decide the main petition filed under Section 125 of the Code, by applying its independent and judicious mind to the material and evidence produced before it.

(SUVIR SEHGAL)
JUDGE

April 28, 2022

savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes