

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

(130)

CRR-851-2022

DATE OF DECISION:- 05.05.2022

**HARISH KUMAR ALIAS HARISH BAKSHI ...PETITIONER
VERSUS**

GEETANJLI SHARMA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Chhavi Sharma, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

Instant revision petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”) challenging the order dated 21.02.2022 passed in complaint No.67/2019 by learned JMIC, Yamuna Nagar at Jagadhri, vide which the petitioner has been directed to pay monthly interim maintenance of Rs.10,000/- to the respondent in proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short “the DV Act”) and the order dated 30.03.2022 passed in CRA-52-2022 by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide which the appeal of the petitioner against the said order has been dismissed.

In brief, facts leading to the filing of the present petition are that the complainant-aggrieved person (hereinafter referred to as “respondent No.1”) has filed a complaint under Section 12 of the D.V. Act averring that she was married to the petitioner on 08.02.2017 and huge amount was spent on the marriage functions and sufficient dowry

was given to the petitioner as well as his relations as per the financial capacity and status of the parties. But from the very beginning, the petitioner and his relations have been harassing, humiliating and assaulting respondent No.1 as they were not satisfied with the dowry. Demand of a luxury car besides gold ornaments were made and when respondent No.1 was unable to fulfill it, she was treated with cruelty. The attitude of her in-laws did not improve even after the birth of the son. On 25.02.2019, she came to know that petitioner is in an extra marital affair. Her confrontation led to her physical assault and soon thereafter, she was thrown out of the matrimonial home with her minor son, who is in a primary school. When she demanded maintenance from the petitioner, he flatly refused. She has also stated that the petitioner has been filing false Income Tax Returns after getting her signatures in order to avoid payment of maintenance. She has claimed that he is working as S.S.E. in Northern Railway, Jagadhri Workshop and getting a monthly salary of Rs.70,000/-. The complainant has sought a monthly maintenance of Rs.30,000/- for herself, Rs.20,000/- for her minor son besides litigation expenses. Along with the complaint, she has also filed an application for interim relief. Upon being served, the petitioner has filed his reply, admitted the relationship between the parties, while denying the allegations. He has not denied his employment with the Railways, but has submitted that out of his salary, he is paying EMI's and meeting expenses of his aged mother as well as unmarried sister besides paying rent and is not left with any money. He has claimed that respondent No.1 deserted him without any reason. Vide impugned order dated 21.02.2022, JMIC, Yamunanagar accepted the application filed by respondent No.1 and

directed the petitioner to pay interim maintenance, as noticed above, which has been upheld by the appellate Court. Both the orders are being impugned herein.

By referring to the Income Tax Returns Acknowledgments, Annexure P-8, counsel for the petitioner has urged that the respondent No.1 is earning and has sufficient means to support herself. She submits that the petitioner, who is a government employee, is taking care of dependant family members including his aged mother, therefore, the grant of monthly maintenance of Rs.10,000/- is unjustified.

I have considered the arguments addressed by the counsel and perused the paper book and the material appended therewith with her able assistance.

There is no dispute about the marital ties between the parties and the birth of a child. There are allegations levelled by both the warring parties against each other, which will be examined by the Trial Court at an appropriate stage. The mere fact that the respondent No.1 is allegedly earning, though this fact has been denied by her, and is an Income Tax Payee, does not disentitle her to claim maintenance. It has been held by the Supreme Court in *Sunita Kachwaha and others Versus Anil Kachwaha 2014 (4) RCR (Criminal) 831*, merely because the wife was earning something, it would not be a ground to reject her claim for maintenance. A cursory look at the Income Tax Returns filed by respondent No.1 for the last two years, i.e., Assessment Years 2020-21 and 2021-22, show that she has declared total annual income of about Rs.81,000/-, which works out to less than Rs.7,000/- per month. The settled legal position is that a wife is entitled the same standard of living

and status as she was enjoying at her matrimonial home. The petitioner is working in the Indian Railways and is drawing a monthly salary of Rs.65,000/-. Though, it has been claimed that he is paying monthly installment of Rs.30,000/-, but the same are liable to be ignored. There is no hard and fast rule for determining the maintenance payable to a wife. Supreme Court in **Kalyan Dey Chowdhury Versus Rita Dey Chowdhury Nee Nandy (2017) 14 SCC 200**, has held that grant of 25% of the salary of the petitioner would by and large, be sufficient.

In the above backdrop, the award of interim monthly maintenance allowance of Rs.10,000/- to respondent No.1 is justified and cannot be termed as excessive.

There is no perversity or illegality in the orders passed by the Courts below.

Finding no merit, petition is hereby dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

05.05.2022
Kamal

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