

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRR(F) No.453 of 2022 (O&M)

Date of decision:22.09.2022

Ishwar Singh

... Petitioner

Vs.

Sunita and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Nisha Malik, Advocate for
Mr. R.S.Mamli, Advocate
for the petitioner.

SUVIR SEHGAL J.

Vide the instant revision petition, petitioner is seeking to challenge order dated 24.03.2022 passed by the Family Court, Fatehabad, whereby, interim monthly maintenance of Rs.15,000/- has been awarded to the respondents (Rs.10,000/- to wife-respondent No.1 and Rs.5,000/- to minor child-respondent No.2.

Counsel for the petitioner has submitted that more than half of his monthly salary is diverted towards payment of installment of car, personal and other loans. It has been contended that as the petitioner is left with a meagre amount to sustain himself and his minor daughter, the impugned order deserves to be set aside.

Argument addressed by the counsel has been considered.

The mere fact that the petitioner has availed of loans and is paying monthly installments cannot debar the respondents from claiming maintenance from him. The first and foremost duty of any person, who is in a financial position to maintain himself, is to take care and maintain his wife, children and parents, rather than availing loans to enjoy the conveniences of life. Possibility of taking loan to avoid the payment of maintenance cannot be ruled out.

It has been held by the Supreme Court in **Sau Suman Narayan Niphade and another Vs. Narayan Sitaram Nipahade and another 1995 Suppl. (4) SCC 243** that even if the husband has incurred a liability to pay installments by obtaining loans, that is no reason that wife and child be denied maintenance. Moreover, the award of monthly maintenance of Rs.15,000/- is barely sufficient to meet both ends. The apathy of the petitioner towards the respondents is further apparent from the fact that despite the maintenance order, petitioner has not made any payment and the Family Court has ordered the attachment of his salary. The conduct of the petitioner is even more shocking for the reason that his minor son-respondent No.2 is ailing and suffering from Ventricular Septal Defect (VSD), i.e., a hole in the heart since birth and he requires regular medical attention.

There is no illegality or irregularity in the order passed by the Family Court. Petition being devoid of merit, is hereby dismissed.

It is clarified that nothing said hereinabove shall be construed

to be an expression of opinion on the merits of the main petition, which will be decided by the Family Court on the basis of evidence led before it.

September 22, 2022
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>