

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(106)

CRR(F)-379-2022

Date of Decision: 07.05.2022

Jagtar Singh

--Petitioner

Versus

Satinder Kaur

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Jagat Vir Dhindsa, Advocate
for the petitioner.

RAJESH BHARDWAJ.J

Petitioner has approached this Court impugning the order dated 24.02.2022 whereby the learned Family Court has granted the interim maintenance of Rs.8,000/- per month to the respondent-wife. He has contended that the learned Family Court has failed to appreciate the evidence on record and thus, has drawn a wrong conclusion by granting interim maintenance of Rs.8,000/- to the respondent-wife.

As per the facts of the case, the respondent-wife, Satinder Kaur was married with the petitioner on 15th August, 2016 at Gurudwara Sahib Village Chaswal, Tehsil Nabha, District Patiala. Admittedly, this was the second marriage of both the petitioner and the respondent. The petitioner had a male child aged about 10 years namely, Sehajpreet from the previous marriage whereas, the respondent-wife had a daughter namely, Divpreet Kaur aged about 4 years. The petitioner-husband allegedly deserted the respondent-wife. The respondent-wife had no source of income and the petitioner being legally bound to maintain the respondent, she filed a petition under Section 125 Cr.P.C. against the petitioner for granting the

maintenance. Learned Family Court after hearing both the parties directed the petitioner to pay an interim maintenance of Rs.8,000/- per month to the respondent-wife from the date of filing the application. It was further directed that if any amount due, the same shall be paid within two months from the date of passing of the order. Aggrieved by the same, the petitioner has approached this Court by way of the present petition.

Learned counsel for the petitioner has vehemently contended that the view taken by the learned Family Court is beyond the evidence on record and being against the settled law, deserves to be *set aside*. Learned counsel for the petitioner submits that admittedly, it was the second marriage of both the petitioner and the respondent, however, the petitioner is a truck driver and his source of income has not been taken into consideration by the Family Court. He submits that the respondent-wife had not approached the Court with clean hands as she has left the matrimonial home of her own and the petitioner is still ready to maintain her. He submits that the respondent has also filed a petition under Sections 12, 17, 19, 20, 22 & 31 of Domestic Violence Act, 2005 and vide order dated 04.09.2019 passed therein, the petitioner had been directed to pay Rs.3,000/- as maintenance to the respondent. He submits that the petitioner has also the responsibility of maintaining his son Sehajpreet Singh from the earlier marriage. He has submitted that income of the petitioner has also been misappreciated by the Family Court and in the overall facts and circumstances, the interim maintenance granted @ Rs.8,000/- is totally against the evidence on record and the settled law and thus, deserves to be *set aside*.

I have heard learned counsel for the petitioner and perused the record.

The relationship between the petitioner and the respondent is not in dispute. Both the petitioner and the respondent have solemnized the marriage willingly with the complete knowledge of their background as this is the second marriage of both. Both of them have one child each from their earlier marriage. There is nothing on record to show that the respondent has any independent source of income. Besides this, the respondent has placed on record the *jamabandi* for the year 2011-12 before the Family Court to show that the petitioner is owner in possession of the agricultural land. The petitioner is an able-bodied person and has agricultural income as well. The Family Court has taken the income of the petitioner to be Rs.25,000/- to Rs.30,000/- per month at the time of passing of the impugned order. Learned Family Court had categorically mentioned that in case the petitioner-husband has paid any amount as maintenance in some other proceedings, the same shall be adjusted against the amount payable under the present petition filed under Section 125 Cr.P.C. Counsel for the petitioner had been unable to show anything contrary on the basis of which the learned Family Court has arrived at the conclusion of granting maintenance of Rs.8,000/- to the respondent-wife. Hon'ble the Supreme Court has settled the law in plethora of the judgments that the maintenance granted under Section 125 Cr.P.C. is to prevent the destitution and the vagrancy. The respondent-wife has no source of income and the petitioner had solemnized the marriage with the respondent with open eyes that she is also mother of a child from the previous marriage. There is nothing on record showing that the respondent left the matrimonial home with her own will.

In view of the facts and circumstances of the case and the law settled, this Court finds no infirmity in the conclusion arrived at by the learned Family Court and trial Court. Hence, the petition being devoid of any merits is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.05.2022
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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