

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

CRR(F)-429-2022

Date of decision : 04.08.2022

Vikash

.....Petitioner

versus

Jyoti and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Pankaj Bali, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court impugning the order dated 17th March, 2022 wherein, learned Family Court has granted interim maintenance @ Rs.9,500/- per month to respondent No.1-wife and @ Rs.4,000/- per month to respondent No.2-minor.

Learned counsel for the petitioner has submitted that the Family Court has fallen in error by awarding total interim maintenance of Rs.13,500/- per month. He submits that after the marriage, respondent No.1 never cooperated with the petitioner and she lodged an FIR No.290 dated 3rd August, 2020, under Sections 406, 498-A at Police Station Sadar, Rohtak. He further submits that the petitioner is simply a Conductor in Chandigarh Transport Undertaking whereas, respondent No.1-wife is M.Sc with Physics and hence, she never considered him as a suitable match for her. He has submitted that the petitioner is living in a rented accommodation and paying rent of Rs.7,200/- per month and he has responsibility of his old aged ailing parents as well but the learned Family Court has failed to appreciate the same. He submits that the Court

below has failed to appreciate the fact that the respondent No.1 is highly educated and she can very well maintain herself. He also submits that as she has intentionally deserted the petitioner and foisted false case against the petitioner, she is not entitled for the maintenance under Section 125 (4) Cr.P.C. He also submits that the petitioner has also filed petition for Restitution of Conjugal Rights under Section 9 of The Hindu Marriage Act but respondent No.2 refused to join the company of the petitioner. Hence, the impugned order deserves to be *set aside*.

Heard.

After hearing counsel for the petitioner and perusing the record, it is apparent that the relationship of the petitioner and respondent No.1 is not in dispute. They got married on 17.04.2019. Out of the wedlock a son-respondent No.2 was born. After the marriage, the matrimonial discord took place between both of them and thus, respondent No.1 has deserted the petitioner. Admittedly, the petitioner is employed as a Conductor in Chandigarh Transport Undertaking whose net salary as per the record was found to be Rs.37,558/-. Simply because the wife is highly educated is not a ground to disentitle her from claiming the maintenance for her and the minor son from her husband. There is nothing on record to show that respondent No.1-wife has deserted the company of petitioner without any rhyme and reason. The provisions of Section 125 Cr.P.C. are for preventing the destitution and vagrancy. The proceedings are summary in nature. The petitioner is able bodied man and husband is legally bound to look after the wife and children. The wife is entitled to the same living standard which she was enjoying before the separation from her husband.

In view of the attending facts and circumstances and the law settled by the Hon'ble Supreme Court in Rajesh Vs. Neha, (2021) 2 SCC 324, the petitioner cannot wriggle out of the responsibility of maintaining the respondent-wife. The total amount of Rs.13,500/- per month assessed and granted by the learned Additional Principal Judge, Family Court, Rohtak to respondents No.1 and 2 cannot be said to be an amount on higher side keeping in view the hike in the price of essential commodities.

Keeping in view the facts and circumstances of the case on the anvil of the law settled, this Court finds no infirmity in the view taken by the Court below. Hence, the petition being devoid of any merits is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

04.08.2022
m. sharma

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