

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

**CRR(F)-606-2022 (O&M)
Date of decision : 18.07.2022**

Deepak

.....Petitioner

versus

Monika and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jasmer Singh Rozera, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court impugning the order dated 21.04.2022 passed by learned Additional Principal Judge, Family Court, Faridabad wherein the Family Court has granted maintenance of Rs.7,000/- per month in total i.e. Rs.3,000/- per month to the wife and Rs.4,000/- to the minor daughter.

Learned counsel for the petitioner has contended that learned Family Court has fallen in error by granting maintenance as directed by the impugned order passed. He submits that the respondent-wife and the minor are living with the petitioner itself and thus, they are not entitled for the maintenance. He has also submitted that the applications filed for leading additional evidence was not considered by the Family Court. He submits that the petitioner is earning hardly about Rs.7,000/- per month whereas, the respondent-wife is also earning about Rs.7,000/- per month which the learned Family Court failed to appreciate. He has submitted that the respondent-wife willfully living separately from the petitioner in the same house and once she is willfully living separately, she is not entitled for any maintenance as granted by the learned Family Court.

Heard.

After hearing counsel for the petitioner and perusing the record, the relationship between the petitioner and the respondents is not in dispute. The marriage between the petitioner and respondent No.1 took place on 30.01.2005. It was due to the matrimonial discord between the husband and wife that the wife started living separately with the minors. The wife though has no independent source of income. The contention raised by counsel for the petitioner that the respondent is living in the same house with the petitioner loses significance once they are living separately. Learned Family Court has observed in the impugned order that it was stated by the petitioner father that Master Yash is in the custody of the father. It is because of this reason, maintenance was granted only qua the mother and the minor daughter. In the facts and circumstances of the case, learned Family Court has assessed the income of the petitioner of Rs.10,000/- to Rs.15,000/- and thus, has assessed the maintenance in total of Rs.7,000/- to both the wife and the minor. The petitioner is an able-bodied man and husband is legally bound to look after the wife and children. The provisions of Section 125 Cr.P.C. are to prevent the destitution and vagrancy. 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 Rajnish Vs. Neha, (2021) 2 SCC 324, the petitioner cannot wriggle out of the responsibility of maintaining the respondent-wife. The total amount of Rs.7,000/- per month assessed by the learned Additional Principal Judge, Family Court, Faridabad to respondents No.2 and 3 cannot be said to be an amount on a higher side

keeping in view the hike in the price of essential commodities. This Court finds no infirmity in the conclusion arrived at by both the Courts below.

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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.07.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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