

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(113)

CRR(F)-556-2022(O&M)
Date of Decision: 04.07.2022

Sukhjinder Singh @ Sukha

--Petitioner

Versus

Priya Sharma

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. V.S. Kathpal, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The petitioner has approached this court by way of filing present petition impugning the order dated 7.6.2022 passed by the learned Family Court, Fazilka, whereby maintenance @ Rs.5500/- per month has been granted to the respondent wife.

Learned counsel for the petitioner contends that the marriage of the petitioner took place with the respondent on 25.11.2017. Thereafter, matrimonial discord took place between husband and wife and despite the best efforts of the petitioner the respondent deserted the matrimonial home without any rhyme and reason. Counsel submits that the petitioner duly disclosed about his previous marriage to the respondent before entering into the matrimonial alliance with her. He submits that after desertion the respondent wife filed a petition under Section 125 Cr.P.C praying for grant of maintenance which was illegally allowed by the learned Family Court. He submits that the petition under Section 125 Cr.P.C was not maintainable as the respondent left the matrimonial home on her own will and there was no justification for the same. He submits that the respondent concealed the factum of her earning that she was employed as a teacher from the

learned Family Court and thus the conclusion arrived at by the learned Family Court in granting her the maintenance was totally against the law settled. Counsel has submitted that the petitioner is a labourer and has an income ranging from Rs.8,000-10,000/- per month. The petitioner also has the responsibility of other family members and thus the view taken by the learned Family Court in granting maintenance of Rs.5500/- per month to the respondent wife is totally unsustainable in the eyes of law and the same deserves to be set aside.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

It is apparent from the record that the relationship between the petitioner and respondent is not in dispute. Though, there is no issue born out of the wedlock, however, the relationship between the petitioner and the respondent is an admitted fact. Both the parties have duly filed their respective affidavits before the learned Family Court to show their respective income. Though, the respondent wife has claimed the income of the petitioner to be Rs.60,000/- per month and contended that he was doing the job as a driver, however, the learned Family Court duly appreciated the same and found the same not supported by any evidence. In view of the facts and circumstances and the evidence adduced on record, the income of the petitioner husband was taken to be Rs.8,000-10,000/- per month. The Family Court duly appreciated the contentions raised by the petitioner husband that the respondent wife was employed as a teacher and had a monthly income of Rs.35,000/-. However, the same was also not supported by any evidence and thus the same was repelled.

In plethora of judgments, it has been held by the Hon'ble Supreme Court that the husband is not only legally but morally also bound to discharge his responsibility for providing maintenance to his wife. The Hon'ble Supreme Court in ***Rajnish V. Neha, (2021) 2 SCC 324*** has already settled the law. The petitioner is an able bodied person and cannot escape the responsibility of providing maintenance to his estranged wife. There is nothing on record to show that the respondent wife has deserted the matrimonial home of her own will. Learned Family Court has awarded a maintenance of Rs.5500/- per month to the respondent wife keeping in view all the facts and circumstances as also the evidence adduced on record.

This court finds no infirmity in the conclusion arrived at by the learned Family Court. The maintenance of Rs.5500/- per month granted to the respondent wife cannot be said to be on the higher side. Accordingly, the present petition is dismissed.

(RAJESH BHARDWAJ)
JUDGE

04.07.2022

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