

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRR(F)-577-2022

Date of Decision: July 12, 2022

Manjeet

.... *Petitioner*

Versus

Amit Kumar @ Sumit

... *Respondent*

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Amit Khatkar, Advocate,
for the petitioner.

Vivek Puri, J.

The petitioner has assailed the order dated 01.06.2022 passed by the Court of learned Principal Judge, Family Court, Kaithal vide which the application for interim maintenance in the proceedings under Section 125 of the Code of Criminal Procedure (for short 'Code') has been dismissed.

The petitioner has approached the Family Court for enforcement of the claim for maintenance as per the provisions of Section 125 of the Code. During the course of said proceedings, an application for grant of interim maintenance has also been filed. The petitioner has

primarily alleged that the respondent is able-bodied person and earning Rs. 50,000/- per month from the tuition work.

It is significant to note that the petitioner is a post-graduate and also having sufficient income. The observation of the learned Court below on the basis of the affidavit of disclosure of assets and liabilities of the parties is given herein below:-

“7. Petitioner in her affidavit qua assets and liabilities, she submitted that she is M.Sc. and her professional qualifications is A.B.R.C. (SSA) and she is earning Rs.16,290/- per month. In this regard his income can be assessed well on merits of the case after evidence is produced to prove the status of parties and entitlement of petitioner according to that status. Prima-facie, it is not proved that petitioner is unable to maintain herself. On other hand in affidavit qua assets and liabilities placed on record by respondent, he submitted that he is labourer and no document is placed on record by the petitioner regarding earning of respondent. In view of the aforementioned discussion, it reveals that the petitioner is earning handsome amount more than respondent for maintaining herself.”

Significantly, the learned counsel for the petitioner has not disputed the fact that the petitioner is earning, but has alleged that she is working on contractual basis. Be that as it may, as on today, the petitioner is employed and earning Rs. 16,290/- per month. The

assertion of the petitioner to the effect that the respondent is engaged in tuition work and earning Rs. 50,000/- cannot be accepted at this stage in the absence of any prima facie proof for the said fact.

As per the provisions of Section 125 of the Code, the order of maintenance can be passed in favour of the wife, if she is unable to maintain herself. Section 125 of the Code has expressly made it clear that the inability of the wife to maintain herself is a condition precedent for invoking the jurisdiction of the Court for enforcement of the claim for maintenance. In the case in hand the petitioner is earning to the extent of Rs. 16,290/- per month. Consequently, it cannot be said that she is unable to maintain herself. As such, no illegality or irregularity is made out in the impugned order which may call for interference by this Court.

Dismissed.

July 12, 2022
vkd

(Vivek Puri)
Judge

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