

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

**114**

**CRR(F)-449-2021  
Decided on : 19.01.2022**

Santosh Devi and another

... Petitioner(s)

Versus

Azad

... Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

**(Through Video Conferencing)**

PRESENT: Mr. Sandeep Lather, Advocate  
for the petitioner(s).

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**MANJARI NEHRU KAUL, J. (Oral)**

The petitioners are impugning the order dated 28.02.2020, vide which the family Court while deciding the application under Section 125 Cr.P.C., held the petitioner No.1 not entitled to any maintenance, as she had refused to join the company of the respondent-husband without any sufficient reason.

Learned counsel appearing for the petitioners further submits that though the Family Court directed the respondent to pay maintenance in the sum of Rs. 3000/- to his child i.e. petitioner No.2, however, the said amount was inadequate and deserved to be enhanced. Learned counsel contends that the respondent was working in Baroda and earning handsome money, whereas, the petitioner No.1 was unemployed and living at the mercy of her parents.

Learned counsel contends that the Family Court failed to appreciate that the petitioner was a drunkard and had been subjecting the petitioner No.1 to harassment, which was precisely the reason why she had refused to return to her matrimonial home.

Heard and perused the material on record.

It has not been disputed by the learned counsel that a petition filed under Section 9 of the Hindu Marriage Act, 1955, by the respondent was allowed, wherein, the Court below held that the petitioner No.1 had left the company of the respondent without any reasonable and sufficient cause. The learned counsel even submitted that the petitioner No.1 had challenged the aforementioned order passed by the Court below under Section 9 of the Hindu Marriage Act, 1955. Not only this, in all the criminal cases which were filed by petitioner No.1 against the respondent, the latter had been acquitted. Still further, the learned counsel could not dispute the factum of the petitioner No.1 deposing in her affidavit (Ex.CW1/A), during the hearing of her petition under Section 125 that she wanted a divorce from the respondent.

No doubt a wife can claim maintenance despite a decree of Restitution of Conjugal Rights (RCR) having been passed against her, but only if the husband in any way has obstructed her from obeying such decree. However, in the present case the petitioners have failed to bring any material on record regarding any obstacles created by the respondent-husband. Rather, it is the petitioner No.1, who has challenged the decree of RCR before the appellate Court. Further, from the perusal of material on record, no sufficient cause has been shown by the petitioner No.1 for withdrawing from the company of the respondent-husband.

Coming to the next prayer for enhancement of maintenance to petitioner No.2, this Court does not find any sufficient ground to interfere with the order vide which maintenance in the sum of Rs. 3000/-, has been ordered. The income of the respondent was assessed as Rs. 5000-7000/-

p.m. by the Court below. In the circumstances, the amount of Rs. 3000/- p.m. assessed as maintenance comes across as sufficient and reasonable.

Accordingly, in the facts and circumstances of the case, I do not find any infirmity, much less, perversity in the impugned order passed by the Family Court, which comes across as a well reasoned one. Consequently, the instant revision petition stands dismissed.

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**January 19, 2022**

*J.Ram*

*Whether speaking/reasoned:*      *Yes/No*

*Whether Reportable:*              *Yes/No*