

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

**119 CRR(F) No.290 of 2021 (O&M)
Date of decision:13.01.2022**

Naval Kishore Aneja alias Shammi ... Petitioner

Vs.

Bindu and others ... Respondents

**CRR(F) No.459 of 2021
Date of decision:13.01.2022**

Bindu and others ... Petitioners

Vs.

Naval Kishore Aneja alias Shammi ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kartar Singh Malik(I), Advocate
for the petitioner in CRR(F) No.290 of 2021.

Mr. N.K.Malhotra, Advocate
for the petitioners in CRR(F) No.459 of 2021.

SUVIR SEHGAL J.

Heard through video conferencing.

Vide this common order, CRR(F) No.290 of 2021 titled as 'Naval Kishore Aneja alias Shammi Vs. Bindu and others' and CRR(F) No.459 of 2021 titled as 'Bindu and others Vs. Naval Kishore Aneja alias Shammi', are being disposed of.

In CRR(F) No.290 of 2021, Naval Kishore Aneja alias Shammi (for short “husband”), has approached this Court seeking setting aside of the order dated 18.08.2021 passed by the Family Court (Additional District

Sessions Judge), Rohtak and in CRR(F) No.459 of 2021, Bindu and her minor children (for short “claimants/wife and children”), have approached this Court for modification of the said order and for enhancement of the maintenance awarded by the Court below.

Facts, in brief, leading to filing of the petitions are that the marriage between the husband and wife was solemnized on 30.04.2005 and two daughters, namely, Jiya and Siya were born out of the wedlock. It has been averred in the application filed by the claimants under Section 125 of the Code of Criminal Procedure, 1973 (for short “the Code”) that the husband and his family members used to continuously harass and torture the wife on account of the fact that she could not give birth to a male child. She was physically assaulted and taunted for having brought insufficient dowry. She made a complaint to the police on 08.08.2019 after she was inflicted injuries by the husband and his family members. All her dowry articles were retained by them on 08.10.2016, she and her minor daughters were thrown out of the matrimonial home. The husband filed a petition under Section 13 of Hindu Marriage Act, 1955 on concocted allegations which was withdrawn, vide order dated 29.04.2017 due to a compromise and the wife started residing at her matrimonial home. However, situation did not improve as the husband and his family members pressurized her to bring a Swift Car from her parents in his name. Various instances of harassment have been mentioned in the petition and it has been submitted that once again on 09.06.2020, she was turned out of the matrimonial home and she submitted a complaint with the police. She does not have sources to take

care of herself and her minor school going children as she is working as Teacher in a private school and drawing a salary of Rs.6,500/- per month which is not sufficient to sustain herself and her daughters. She invoked Section 125 of the Code, vide application dated 25.06.2020 and has sought monthly maintenance of Rs.1.00 lac from the date of filing of the application besides litigation expenses of Rs.55,000/-. A separate application has been filed by her seeking grant of interim maintenance. Upon putting in appearance, the husband filed his reply to both the main petition as well as the application for interim maintenance, denying all the material allegations as well as the fact that he is earning more than Rs.2.00 lacs per month, rather stand taken by the husband in his reply is that the wife is working as a Computer Teacher and earning Rs.30,000/- per month and also runs a Cosmetic Shop, has employed a helper and earns Rs.50,000/- per month from the shop.

On basis of the documents filed by the parties, the Family Court, Rohtak, vide impugned order dated 18.08.2021 directed the husband to pay an interim maintenance of Rs.5,000/- per month to each of the claimants from the date of filing of the application. Both the husband and claimants are before this Court impugning the said order.

I have heard counsel for the parties and have perused the documents placed on record.

The marriage between the parties and birth of two children is admitted. Both the parties have levelled allegations and counter allegations against each other, which this Court does not intend to go into, and the

parties are at variance regarding the reason for which the wife left the matrimonial home with her children. Alongwith her petition, CRR(F) No.459 of 2021, the wife has filed an affidavit of assets and liabilities claiming that she is spending Rs.30,000/- to Rs.32,000/- per month, which includes monthly expenditure of more than Rs.13,000/- on the education and other expenses for bringing up the two daughters, besides monthly rent of Rs.2,000/- and household expenditure of Rs.10,000/-. She has also claimed that the husband has not paid her anything and her expenses are primarily met from the financial support given by her father and brother. She has also claimed that she is getting a monthly salary of Rs.6,500/- per month from a school which is not sufficient to meet the monthly expenses. On the other hand, the husband has not filed the affidavit of assets and liabilities before this Court, though from perusal of the impugned order, it is apparent that such an affidavit was filed before the Family Court. However, he has admitted that he owns two shops in Lala Lajpat Rai Furniture Market, Rohtak, which have been let out on the monthly rent of Rs.16,500/- vide rent note, Annexure P-6, appended by him with his petition, CRR(F) No.290 of 2021 which shows that the shops have been let out for a period of six years w.e.f. 01.07.2021 and a security of Rs.2.00 lac has been deposited with him by the tenant. The husband has also admitted ownership of property measuring 164 square yards, which according to him is with a caretaker, though he has denied that he has constructed rooms on this property and let them out. Still further, it has come on the record that the husband was an office bearer of Lala Lajpat Rai Furniture Market Union

from where he resigned on 18.05.2020. Though he has claimed that wife is earning Rs.26,650/- per month as salary from a private school, but the salary certificates appended with his petition pertain to year 2014 and the bank statement is of the year 2016. The financial status of the wife has to be determined on the date when the petition under Section 125 of the Code is filed, i.e. in June 2020, however, there is nothing on the record to show that she continues to draw the same salary as is claimed by the husband.

From the material on the record, this Court can safely assume that the husband is a man of means and has sufficient income to support his wife and daughters. Even otherwise, it is the moral responsibility and obligation of a man to take care of his family and he cannot shirk from the same. In the above circumstances, this Court is of the view that award of the interim maintenance of Rs.5,000/- per month for each of the claimants cannot be said to be unreasonable or excessive.

Still further, it deserves to be noticed that by order dated 09.09.2021, passed in the petition filed by the husband, this Court directed him to file an affidavit to the effect that he has cleared the arrears of maintenance, however, he has failed to do so. Therefore, there is no equity in his favour.

In view of the above discussion, this Court is of the opinion that there is no illegality or perversity in the impugned order passed by the Family Court, Rohtak, which does not call for any interference. Both the petitions are accordingly dismissed.

Any observation made hereinabove shall not be binding on the Family Court which shall decide the main application by applying its independent and judicious mind to the material and evidence adduced before it.

(SUVIR SEHGAL)
JUDGE

January 13, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes