

115

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-681-2022 (O&M)

Date of Decision: August 10, 2022

Sanjiv Kumar

.....Petitioner

Versus

Poonam Devi and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Piyush Khanna, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

CRM-28903-2022

For the reasons mentioned in the application, the same is allowed. Delay of 25 days in filing the present revision petition is condoned.

Main case

Petitioner-husband has approached this Court impugning the order dated 01.04.2022 passed by learned Additional Principal Judge (Family Court), Hoshiarpur, wherein it has granted interim maintenance @ Rs.20,000/- per month to the wife and Rs.10,000/- per month to the minor.

Counsel for the petitioner has submitted that the Family Court has illegally drawn the conclusion of awarding interim maintenance of Rs.20,000/- per month to the respondent-wife and Rs.10,000/- per month to the minor. He submits that the marriage between the parties is not in dispute and their marriage was solemnised on 02.09.2009. He submits that it was a

simple marriage and there was no demand of dowry etc.. Thereafter, respondent No.2 was born on 05.08.2010. He submits that respondent No.1-wife used to level false and frivolous allegations of illicit relationship of petitioner. He has submitted that petitioner had tolerated the cruelty caused by the respondent-wife time and again. Despite his best efforts, the behavior of the respondent-wife did not change and hence he filed a petition for grant of a decree of divorce under Section 13 of the Hindu Marriage Act, however, the same was dismissed. He submits that the petitioner is serving in Indian Army and his gross-salary is Rs.88,690/-p.m.. However, as per the pay slip of the petitioner, his salary varies from Rs.61,020/- to Rs.88,690/-. He has submitted that respondents are residing in the house of the petitioner, to the exclusion of the petitioner, and the petitioner is paying a monthly rent of Rs.7,000/-, however, the Family Court failed to appreciate the same. He has further submitted that the respondent-wife is very well educated, i.e. M.Sc(IT) and B.Ed and therefore, being a well qualified person, she is not entitled for claiming maintenance. He submits that in the overall facts and circumstances and the law settled, the learned Family Court has failed to appreciate the same and thus, the view taken is unsustainable in the eyes of law.

Heard.

The relationship between the petitioner-husband and the respondent-wife is an admitted fact. They were married on 02.09.2009 and a son was also born out of the wedlock on 05.08.2010. It is apparent from the perusal of the record that the respondent-wife is a cancer patient. The disease was detected on 05.10.2015 and allegedly the petitioner did not discharge his responsibility towards her treatment. She made application to

SSP, Hoshiarpur and, however, the petitioner instead of looking after the wife, filed a petition under Section 13 of the Hindu Marriage Act, which was dismissed on 01.11.2018. The petitioner is employed in BSF. He filed the pay slip of July 2021 as per which his gross salary was Rs.88,690/- whereas his carry home salary was Rs.63,660/-. The Court cannot be oblivious of the fact that the respondent-wife is a cancer patient. Even if after treatment her disease is under control, strict discipline to keep the disease under check, as per the medical prescription, cannot be ignored by this Court. Simply because the respondent-wife is well educated, it is no ground to absolve the husband from his legal and moral responsibility. The ailing wife is discharging the responsibility towards her minor son as well. In the precarious condition in which the wife is undergoing, the husband was expected to be more responsible towards his wife and the minor rather than opposing the interim maintenance granted by the Family Court. The petitioner is obviously an able bodied person, who is employed in BSF and is earning handsome salary. The provisions of Section 125 Cr.P.C. are for preventing destitution and vagrancy. As per the law settled by Hon'ble Supreme Court in plethora of judgments, the husband is legally and morally responsible to look after his wife and children. As per the law settled by Hon'ble Supreme Court in case of **Rajnish Vs. Neha**, 2021(2) SCC 324, the wife has a right of same living standard, which she was enjoying while living with the husband.

Keeping in view the facts and circumstance of the case and the income of the petitioner, the maintenance granted by the learned Family cannot be said to be on higher side.

In the overall facts and circumstances of the present case, this

Court finds no infirmity in the order passed by the learned Family Court .

Resultantly, the revision petition is dismissed being devoid of any merit.

August 10, 2022
meenuss

(RAJESH BHARDWAJ)
JUDGE

- | | | |
|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |