IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201) **CRR(F)-449-2019**
DATE OF DECISION:- 22.07.2022

DILRAJ SINGH ...PETITIONER
VERSUS
RAJWINDER KAUR ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jitender Singh Dadwal, Advocate for the petitioner.

Mr. Mohd. Yousaf, Advocate for the respondent.

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<u>SUVIR SEHGAL, J.</u> (ORAL)

Instant revision petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”) challenging order dated 20.05.2019 passed by learned Principal Judge, Family Court, Jalandhar, whereby interim monthly maintenance of Rs.9,000/- has been awarded to respondent-wife, besides litigation expenses to the tune of Rs.10,000/-.

Facts, in brief, leading to the filing of the instant petition are that respondent was earlier married to Sukhwinder Singh and a daughter was born out of the wedlock, however, the marriage ended in a divorce in February, 2018. She came in contact with the petitioner, who developed physical relations with her and ultimately got married to her on 16.03.2018 and they lived together at Jalandhar. She was tortured and harassed after marriage on account of dowry and forced to bring cash from her parents. The petitioner did not accept her daughter. When she could not bear the inhuman treatment, she started residing in a separate accommodation and lodged FIR No. 40 dated 18.06.2018 for offences under sections 498-A and 420 of the Indian Penal Code, 1860 against the petitioner. As she did not have any source to sustain herself and her minor daughter, she filed a petition under Section 125 of the Code, which has been contested by the petitioner. The petitioner denied the factum of marriage as also his source of income. After considering the case of both the parties, learned Family Court vide order impugned herein awarded interim maintenance to the petitioner as noticed above, but rejected the claim in so far as the minor daughter is concerned. Petitioner is in revision before this Court challenging the said order.

I have heard counsel for the parties.

Although the petitioner denied having solemnized marriage with the respondent, but on basis of a Certificate dated 16.03.2018 issued by Gurudwara Dashmesh Pita Patshahi Dasvi (Regd.), village Singa Devi, Tehsil Kharar, District Pathankot along with photographs, wherein the parties can be seen performing religious wedding ceremonies, the learned Family Court prima facie found that the parties were married to each other. The Court further came to the conclusion that whereas the respondent has no source of income, the petitioner is working as a Computer Operator with Punjab Police, has a monthly salary of Rs.50,000/- and after deductions, his carry home salary is Rs.44,737/-. On this basis, the Trial Court fixed the monthly maintenance of Rs.9,000/- for the wife-respondent. Counsel for the petitioner has placed reliance upon Income Tax Returns to submit that the respondent is earning, however, that in itself is not a sufficient ground to decline maintenance to the wife. It has been held by the Supreme Court in ***Sunita Kachwaha and others Versus Anil Kuchwaha (2014) 16 SCC 715*** that merely because a wife is qualified and is earning something would not be a ground to reject her claim.

At this stage, conduct of the petitioner deserves to be noticed as it is apparent from the orders passed by this Court, which are being noticed herein below.

On 20.04.2021, this court passed the following order:-

> *"The case has been taken up for hearing through video-conferencing.*
>
> *Notice of motion was issued on 19.09.2019 when the learned counsel for the petitioner relied upon copy of income tax returns of the assessment year 2019-2020 showing gross total income of the respondent to be Rs.96,35,000/- and paid tax of Rs.32,77,760/-. Interim order was passed thereby staying the order awarding maintenance in favour of the respondent. Thereafter, learned counsel for the respondent placed on record copy of income tax returns of the assessment year 2019-2020 duly signed by the respondent, showing the gross income to be Rs.4,10,150/- and total tax paid thereon to the tune of Rs.2,090/-. Learned counsel for the respondent states that copy of income tax returns submitted by learned counsel for the petitioner as Annexure P-3 is a fake document, which is not carrying any signature of the assessee, whereas copy of income tax returns submitted by the respondent carries signature in the relevant column.*
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> *In order to proceed further in the case, genuineness of Annexure P-3 attached by the petitioner with the main petition and Annexure R-1 attached by the respondent along with CRM No.25223 of 2020 need to be*

ascertained for which directions are being issued to Chief Judicial Magistrate, Jalandhar to enquire into the genuineness of the aforesaid documents and submit a fact finding report by the adjourned date. Photocopies of the record be sent to concerned Court. Both the parties, if so advised may assist the Court of Chief Judicial Magistrate in the aforesaid context.

Adjourned to 20.07.2021.

Interim order to continue till the next date of hearing."

Report was received from the Chief Judicial Magistrate Jalandhar, which has been noticed by this Court in order dated 11.10.2021, which is reproduced as under:-

"In compliance of order dated 20.04.2021, report of the Chief Judicial Magistrate, Jalandhar along with all the relevant documents/enclosures has been received which is annexed as Flag 'A'. The Chief Judicial Magistrate, Jalandhar has submitted that as per the statement of the Income Tax Officer and the report submitted by him with respect to the Income Tax Return dated 30.08.2019 (Annexure P- 3) annexed by the petitioner with the main petition, income of Rs.96,35,000/- was not found to be a genuine document as tax amount of Rs.32,77,760/- vide BSR Code No.0510308 dated 29.08.2019 was not paid as per the Income Tax Department. It has further been submitted that challan number as well as the BSR Code had been wrongly mentioned and the payment of Rs.190/- has been made vide BSR Code vide BSR Code No.0510308 dated 29.08.2019 in the name of Ghansyam Bhai Babu Bhai of Ahmadabad. Still further only Income of Rs.3,40,150/- was found to be genuine as payment of tax of Rs.2,090/- was paid through BSR Code No.6910333 dated on 06.05.2019 which finds reflected on the departmental system as payment made by respondent-Rajwinder Kaur.

Learned counsel appearing for the petitioner seeks an adjournment to inspect the record and thereafter make his submissions.

Adjourned to 07.01.2022.

Interim protection granted vide order dated 30.09.2019 stands vacated."

From the above, it is apparent that the petitioner has approached this Court on the basis of forged documents and not only the petition is liable to be dismissed, but calls for imposition of costs, which are quantified at Rs.25,000/-.

Dismissed with costs of Rs.25,000/- to be paid to the wife-respondent before the Executing Court/Family Court.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the main petition pending before the Family Court.

(SUVIR SEHGAL)
JUDGE

22.07.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No