

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

CRR(F)-725-2022 (O&M)
Date of Decision: 24.8.2022

Sachin

..... Petitioner

Versus

Manju Bala and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vishal Sharma, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

The petitioner has approached this Court by way of filing the present revision petition impugning the order dated 24.5.2022 passed by the learned Principal Judge (Family Court), Hisar, whereby interim maintenance @ Rs.6,000/- per month to the respondent-wife and Rs.4,000/- per month to the minor son from the filing of the application and Rs.11,000/- as litigation expenses, has been awarded.

It has been contended by learned counsel for the petitioner that the petitioner was married with respondent No.1 on 14.4.2013. Out of the wedlock, a son respondent No.2 was born. Due to temperamental differences, matrimonial discord took place between both the husband and wife and as a result, the respondent-wife left the matrimonial home without any rhyme and reason. He submits that the respondent-wife is living separately. A community Panchayat was also convened to settle the dispute amicably, however, the same remained unsuccessful. He submits that after having no other option, the petitioner filed petition under Section 13 of the Hindu Marriage Act, 1955 praying for grant of divorce and *ex-parte* divorce was granted to the petitioner. He has submitted that after having been granted divorce, the respondent-wife has filed petition under Section 125

Cr.P.C. for grant of maintenance, which is not maintainable. He submits that the petitioner had filed divorce petition on the ground of cruelty, which has been allowed by the Court *ex-parte*, as she never opted to contest the same. However, the learned Family Court has failed to appreciate this fact. He further submits that the petitioner has already filed a petition under Section 25 of the Guardian and Wards Act seeking custody of the minor and the same is pending adjudication. He submits that the petitioner is employed as JBT on contractual basis and has the responsibility of old aged mother as well. His salary is Rs.47,078 per month, however, learned Family Court has failed to appreciate the same and thus, has drawn a wrong conclusion in granting the maintenance as mentioned above. He has submitted that the view taken by the learned Family Court is totally against the evidence on record and against the judicial precedents and thus, deserves to be set aside.

Heard.

The relationship between the petitioner-husband and respondent No1-wife is not under dispute. Admittedly, both were married on 14.4.2013 and blessed with a son. The petitioner is employed as JBT teacher, who is admittedly drawing salary of Rs.47,078/- per month. There is nothing on record showing that the respondent-wife has any independent source of income. Though as contended by learned counsel for the petitioner, the petitioner has been granted *ex-parte* divorce, but the respondent-wife has not re-married and thus, she is legally entitled for maintenance under Section 125 Cr.P.C. Besides the maintaining herself, the respondent-wife has the responsibility of a minor son as well. The provisions of Section 125 Cr.P.C. are for preventing destitution and vagrancy. The petitioner is an able bodied person. 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. As per the law settled by Hon'ble Supreme Court in case of Rajnish Vs. Neha, 2021(2) SCC 324, the estranged wife has right of living standard, which she was enjoying while living with the husband. Admittedly, the petitioner-husband is earning Rs.47,078/- per month. Keeping in view the facts and circumstance of the case and the income of the petitioner, the learned Family Court has granted the maintenance of Rs.6,000/- per month to the wife and Rs.4,000/- to the minor son, which in any case cannot be said to be on higher side. In the overall facts and circumstances, this Court finds no infirmity in the order passed by the learned Family Court, thus, the petition being devoid of any merit, is hereby dismissed.

24.8.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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