

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

**CRR(F)-539-2019 (O&M)
Date of decision : 21.07.2022**

Chuni Lal

.....Petitioner

versus

Nisha Rani

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Munish Puri, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court impugning the order dated 03.04.2019 passed by the Family Court, Pathankot wherein the Family Court has awarded maintenance of Rs.3,000/- per month to the respondent-wife.

Learned counsel for the petitioner has vehemently contended that respondent has filed petition under Section 125 Cr.P.C. for granting maintenance. He submits that learned Family Court has failed to appreciate that the respondent could not prove the relationship of her being wife of the petitioner and thus, she was not entitled for the maintenance awarded. He submits that petitioner is 68 years old whereas, respondent is 47 years old. He submits that respondent was already married with one Teririo Ram. He submits that respondent was working as a maid in the house of the petitioner and there is no divorce between her and said Teriro Ram, therefore, the question of entering into marriage with the petitioner does not arise. However, learned Family Court has failed to appreciate the same and thus, drawn a wrong opinion which is unsustainable in the eyes of law. He submits that the maintenance as awarded under Section 125 Cr.P.C. deserves to be *set aside*.

I have heard counsel for the petitioner and perused the records.

Though respondent had duly filed the petition under Section 125 Cr.P.C. praying for grant of maintenance, she has specifically mentioned that it was the second marriage of both the petitioner and the respondent. Since 2005, both were living peacefully, however, from October, 2016, the husband stopped paying maintenance. It is also contended that the husband-petitioner transferred his house in the name of respondent-wife and thereafter he fraudulently took back the said house. In order to prove her case, she entered into the witness box as AW-1 and tendered her affidavit EX.AW-1/A. The petitioner-husband tendered his affidavit as RW-1/A and was cross-examined in part but his defence was struck off. The affidavit filed could be of no avail. Thus, the evidence adduced by the respondent-wife remained unrebutted. In the facts and circumstances of the case, the Family Court had calculated the income of the petitioner as Rs.9,000/- per month and thus, maintenance of Rs.3000/- per month was awarded to the respondent-wife. The provisions of Section 125 Cr.P.C. are for preventing the destitution and vagrancy. The proceedings are summary in nature. It is primarily for the survival of the destitute wife. The husband is legally bound to look after the wife and children.

This petition has been filed with the delay of 37 days. Neither there is any merit for condonation of delay nor there is a case on merits. This Court does not find any infirmity in the conclusion drawn by the trial Court. The petition being devoid of any merits, is hereby, dismissed.

(RAJESH BHARDWAJ)
JUDGE

21.07.2022
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No