

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

118

CRM-M-52121 of 2021
Date of decision:08.02.2022

Yogender

... Petitioner

Vs.

Jyoti and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikram Rana, Advocate
for the petitioner.

SUVIR SEHGAL J.

Heard through video conferencing.

Vide the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”), the petitioner has sought setting aside of impugned order dated 28.09.2021 (Annexure P-1) passed by learned Additional Sessions Judge, Charkhi Dadri and order dated 06.09.2018 (Annexure P-2) passed by learned Chief Judicial Magistrate, Charkhi Dadri.

Succinctly, the facts leading to the filing of the present petition are that petitioner was married to respondent No.1 on 29.04.2013 and two children, a son and a daughter, respondents No.2 and 3, were born out of the wedlock. The respondents filed a petition under Section 125 of the Code, on the allegation that though sufficient dowry was given at the time of marriage, but soon thereafter, the petitioner started demanding a car, his parents and other relatives raised demand of cash, gold etc. Respondent No.1 was maltreated, physically harassed on one pretext or the other and turned out of the matrimonial home in May, 2014. It has been averred that she does

not have any source of income to maintain herself and her children, whereas, the petitioner, who is serving in a reputed company in Gurugram is drawing Rs.30,000/- per month as salary and has monthly income of Rs.10,000/- from agricultural land. She has sought maintenance of Rs.20,000/- per month, besides other relief. A separate application has been filed by her seeking monthly interim maintenance of Rs.20,000/-. Upon being served, the petitioner appeared and filed his reply wherein, he has admitted the factum of marriage and birth of two children, but the other allegations have been denied. A stand has been taken that respondent No.1 is a quarrelsome lady, who badmouths the petitioner and his family members and even insulted him in the presence of his friends and relatives. It has been submitted by the petitioner that he is a Matriculate and earns Rs.8,000/- per month by doing many labour work and does not possess any agricultural land. He has submitted that respondent No.1 is earning salary of Rs.20,000/- per month from a private school and has prayed for dismissal of the petition. On the application seeking interim maintenance, the Court of learned Chief Judicial Magistrate, Charkhi Dadri, vide order dated 06.09.2018 (Annexure P-2) held the respondents entitled to monthly maintenance of Rs.5,000/- per month and granted litigation expenses of Rs.10,000/-, which has been upheld in revision by the learned Additional Sessions Judge, Charkhi Dadri, vide order dated 28.09.2021 (Annexure P-1). Both the orders are under challenge herein.

Heard counsel for the petitioner.

There is no dispute about the relationship between the parties, who are at daggers drawn. Both the husband and wife have levelled salvos

of accusations against each other, but this is not the stage to examine them. Two children have been born out of the wedlock, who are admittedly living with respondent No.1. There is no evidence on the record regarding the income of the petitioner. Argument of the petitioner that respondent No.1 is earning, without any document to substantiate it, will not absolve the petitioner of his moral duty and responsibility to maintain his wife and family. There is nothing on record to show nor has he been averred that the petitioner is not an able-bodied person, who is physically not in a position to earn a living.

Keeping in view the legislative intent and object behind enacting Section 125 of the Code, this Court is of the view that award of Rs.5,000/- per month besides one time litigation expenses to the respondents, cannot be said to be excessive. There is no merit in the petition, which is ordered to be dismissed.

Nothing said hereinabove shall be construed to be an expression on the merits of the main petition filed under Section 125 of the Code, which shall be decided on the basis of evidence led by the parties before the Court below.

(SUVIR SEHGAL)
JUDGE

February 08, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes