

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(110)

CRR(F)-68-2022

Date of Decision: 04.02.2022

Sh. Rahul Sharma

--Petitioner

Versus

Smt. Harpreet Kaur

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. N.K. Malhotra, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The petitioner has approached this Court by way of filing the present revision petition impugning the order dated 16.9.2021 whereby maintenance of Rs.5,000/- per month from the date of filing of the petition along with litigation expenses to the tune of Rs.11,000/- has been granted in favour of respondent wife by the learned Family Court, Ambala.

As per the facts of the case the petitioner was duly married with the respondent on 12.12.2015 at Ambala City according to Hindu rites and ceremonies. After the marriage differences took place between the petitioner and the respondent, however, when the rift kept widening the respondent wife left the matrimonial home and thereafter filed a petition under Section 125 Cr.P.C praying for grant of maintenance. It was alleged by the respondent wife that the petitioner was told to be an Army officer but after the marriage this fact was found to be false. Besides there were number of outstanding issues between husband and wife which made the matrimonial life ran in rough weather.

The petitioner resisted the claim filed by the respondent wife and duly filed his reply to the same. He submitted that the respondent wife concealed her date of birth from him and it was found that she was in fact 20 years elder to him. It was further submitted that the respondent wife had left the matrimonial home without any rhyme and reason and the petitioner is ready to maintain the wife and hence she is not entitled for any maintenance. It was further mentioned that the marriage was solemnized at a Gurudwara in a simple ceremony and it was a love-cum-arranged marriage. Thus, it was prayed by the petitioner that the respondent wife is not entitled for the maintenance.

The learned Family Court after hearing both the sides, appreciating the material produced on record and relying upon the various judicial precedents finally awarded a maintenance of Rs.5,000/- per month to the respondent wife along with litigation expenses to the tune of Rs.11,000/-.

Learned counsel for the petitioner has vehemently contended that the Family Court has totally fallen in error in granting the maintenance of Rs.5,000/- to the respondent wife. It is contended that the respondent had concealed her income from the Family Court as she is earning from internet marketing and as an Astrologer also and her earning is more than Rs.15,000/- per month. It is further contended that she had concealed her age from the petitioner and thus clandestinely married with the petitioner. Counsel submits that net salary of the petitioner as per affidavit filed before the Family Court was Rs.24,000/- per month but the same has not been taken into account. He submits that the contention of the respondent wife that the petitioner is earning an amount of Rs.1 lakh per month is

without any basis and hence the conclusion arrived at by the Family Court is totally unsustainable in the eyes of law.

I have heard learned counsel for the petitioner at length and have gone through the records made available.

Admittedly the petitioner and respondent are duly married and are husband and wife. Besides their oral contentions they have filed their respective affidavits showing their incomes. Admittedly the respondent wife is living separately from the petitioner. It is apposite to appreciate that though the respondent wife has asserted before the Family Court that the petitioner has an income of Rs.1 lakh per month besides an income of Rs.50,000/- per month from the over time but the Family Court has not relied upon the same as there was no evidence produced in support of the same, whereas the Family Court has taken into consideration the income of the petitioner as per his own affidavit wherein the net salary of the petitioner is mentioned as Rs.24,000/- per month. Regarding the other contention of EMI being paid the petitioner produced no relevant documents in support of the same. The maintenance granted under Section 125 Cr.P.C is to prevent the destitution and the vagrancy.

The Hon'ble Supreme Court in case of *Rajnesh Vs. Neha & another (2021) 2 SCC 324* and in *Sunita Kachwaha & others Vs. Anil Kachwaha (2014) 16 SCC 715* has held that even if the wife is earning then also she is not debarred from claiming maintenance under Section 125 Cr.P.C. In the case in hand petitioner is an able bodied person and earning as well.

In view of the overall facts and circumstances and the law settled by the Hon'ble Supreme Court, this Court finds no infirmity in the conclusion arrived at by the learned Family Court.

The petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

04.02.2022

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No