

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(127)

CRR(F)-1006-2022(O&M)
Date of Decision:05.12.2022

Harish Kumar

--Petitioner

Versus

Ritu

--Respondent

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

Present:- Mr. S.C. Sati, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

CRM-43880-2022

Application is allowed as prayed for.

Annexures P-13 to P-15 are taken on record.

Main Case

The petitioner has approached this court by way of filing present petition impugning the order dated 19.5.2022 passed by the learned Family Court, Panipat, whereby interim maintenance @ Rs.8,000/- per month has been granted to the respondent wife.

As per facts of the case, marriage of the petitioner took place with the respondent on 11.11.2019. Thereafter, matrimonial discord took place between husband and wife on the alleged demand of dowry by the in-laws and the respondent-wife deserted the matrimonial home. Thereafter, she filed a petition under Section 125 Cr.P.C seeking maintenance from the petitioner husband. It was stated in the petition that the husband was employed in the Electricity Department and was earning Rs.50,000/- per month. It was also stated that she was a house wife and was totally dependent on the income of her husband. She also submitted that she had

to leave the matrimonial house on account of the harassment and cruelty caused by her husband. The learned Family Court after hearing both the sides granted interim maintenance @ Rs.8,000/- per month to the respondent wife. Aggrieved by the same petitioner has approached this court by way of filing the present revision petition praying for setting aside the impugned order.

Learned counsel for the petitioner submits that the allegations pertaining to demand of dowry are totally false and frivolous. It is submitted that the respondent wife had extramarital relations and she had totally unreasonable behavior in the matrimonial home and on account of the same she left the matrimonial home without any rhyme and reason. Counsel submits that in view of the statutory provisions of Section 125(4) Cr.P.C respondent wife is not entitled for the maintenance as granted by the learned Family Court. It is submitted that she deserted the petitioner on 6.5.2020 and till date without any sufficient cause she is living separately. Counsel submits that once the respondent wife is living in adultery, by no stretch of imagination it can be inferred that she is entitled for the maintenance under Section 125 Cr.P.C. Counsel has placed on record affidavit of the petitioner pertaining to his assets and liabilities. He submits that as per the same the total monthly income of the petitioner is about Rs.35,172/-, whereas his total monthly expenditures are Rs.40,952/-. Counsel submits that the learned Family Court has failed to appreciate the evidence on record and thus has drawn a wrong conclusion in awarding the maintenance to the respondent wife and hence the impugned order deserves to be set aside.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

It is apparent from the record that the relationship between the petitioner and respondent is not in dispute. Though, there is no issue born out of the wedlock, however, the relationship between the petitioner and the respondent is an admitted fact. From the facts and circumstances, it is evident that the respondent wife is living separately from the petitioner. Prima facie, the matrimonial discord between the husband and wife is apparent. As per the settled law the provision of Section 125 Cr.P.C is not meant to award punishment, however, the same is to prevent the vagrancy and destitution. Even if it is assumed that the respondent wife has some source of income the same does not absolve the petitioner husband from looking after the estranged wife. The petitioner husband is not only legally but morally also bound to discharge his responsibility for providing maintenance to his wife. The Hon'ble Supreme Court in ***Rajnish V. Neha, (2021) 2 SCC 324*** has already settled the law.

So far as the contention raised by counsel for petitioner regarding the respondent wife living in adultery is concerned, the same is a matter of evidence. Learned Family Court has awarded maintenance for the survival of the respondent wife. There is nothing on record to show that the respondent wife has an independent source of income.

Thus, weighing the facts and circumstances of the present case on the anvil of the law settled, this court does not find any infirmity in the

view taken by learned Family Court in granting the interim maintenance of Rs.8,000/- per month to the respondent wife.

Resultantly, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

05.12.2022
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No