

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

114

CRR(F) No.196 of 2022
Date of decision:16.03.2022

Parminder Singh alias Pappu

... Petitioner

Vs.

Parveen Kumari

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. K.B. Raheja, Advocate
for the petitioner.

SUVIR SEHGAL J.

Heard through video conferencing.

Challenge in the instant revision petition filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”) is to the order dated 11.10.2021, whereby, the respondent-wife has been granted interim monthly maintenance of Rs.4500/- from the date of the institution of the application.

Facts, in brief, may be noticed. The marriage of the respondent was solemnized with the petitioner in the year 2012 and the parties resided together as a married couple at Sri Muktsar Sahib, but no child was born out of the wedlock. It has been pleaded by the respondent, in her application filed under Section 125 of the Code (Annexure P-1) that the petitioner had a humiliating attitude towards her and has been physically as well as psychologically harassing her. She has pleaded that the petitioner was earlier married to one Amarjit Kaur and the marriage ended in a divorce as the petitioner was in a relationship with another lady and he is continuing with his extra marital affair even now. It has also been submitted in the

application that the previous wife of the petitioner had lodged an FIR against him under Sections 498-A, 494, 109 IPC because of his adulterous affair with the said lady. It has been averred that on 18.08.2019, the petitioner physically assaulted the respondent and threw her out of the matrimonial home and despite attempts by her family and panchayat, she was not rehabilitated. The respondent has pleaded that the petitioner is a owner of four shops, three of which have been let out and he is running his own business from the fourth shop. It has been claimed that he owns a truck and is earning handsomely from transport business as well as from the business of finance. The application has been contested by the petitioner by filing reply (Annexure P-2), wherein, the marriage has been admitted, though the claim has been contested on the ground that the marriage was never consummated. Reliance has been placed by the petitioner on a transfer deed (Annexure P-3) to submit that the petitioner has sold some property. The petitioner has also taken a stand that the respondent is running a boutique and has sufficient income. On an application for interim maintenance, the learned Magistrate has granted Rs.4,500/- per month as maintenance to the respondent-wife, which order is impugned herein.

I have heard counsel for the petitioner and gone through the documents annexed with the petition.

In an application for maintenance under Section 125 of the Code, the wife is required to establish that she is unable to maintain herself and the husband despite having sufficient means, has refused or neglected to maintain her. An assertion by the wife that she is unable to maintain herself would be sufficient and it is for the husband to prove otherwise. The burden lies on the husband to prove that he does not have sufficient means to

discharge his obligation or that he did not neglect or refuse to maintain his wife.

In the case in hand, the marital relations between the parties are admitted. The parties are yet to lead evidence on their individual stand and there are allegations and counter-allegations, which the Court does not deem it appropriate to deal with it, at this stage. The assertion of the petitioner regarding non-consummation of marriage and its impact, if any, on application seeking maintenance under Section 125 of the Code, will be considered by the Magistrate, when the application is finally decided. Insofar as the instant revision petition is concerned, suffice it to say, by considering the fact that petitioner is an able bodied person, the award of Rs.4,500/- as interim maintenance in favour of the respondent can neither be said to be excessive nor unreasonable. Hence, there is no ground warranting interference with the impugned order.

As a result, revision petition is dismissed and impugned order dated 11.10.2021 is hereby confirmed.

Needless to mention, any observation made hereinabove shall not be construed to be an expression on the merits of the application under Section 125 of the Code, which will be decided on the basis of evidence led by the parties before the Magistrate.

(SUVIR SEHGAL)
JUDGE

March 16, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes/No