

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

CRR-249-2022

Date of Decision: 20.7.2022

Hanuman

..... Petitioner

Versus

Nisha and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Rohit Mittal, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

The petitioner has approached this Court by way of filing the present revision petition impugning the order dated 26.10.2021 passed by the learned Additional Sessions Judge, Rewari, whereby on an appeal filed by the respondent-wife, the maintenance of Rs.4,000/- per month granted by the learned JMIC, Rewari was enhanced to the tune of Rs.10,000/- per month.

As per facts of the case, the petitioner was married with respondent No.1 on 3.6.2009 as per Hindu Rites and Ceremonies. After the marriage, they were blessed with a son. However, matrimonial discord took place between the husband and wife and on account of the same, the respondent-wife filed a petition for grant of interim maintenance. It was contended by the respondent-wife that the husband is a habitual drunkard and is a man of bad habits. She was harassed persistently on various petty issues and finally shunted out of the matrimonial home by the petitioner in March 2019. She stated that the petitioner husband has a monthly income of Rs.60,000/- and she has no source of income and thus, is solely dependent on her parents to meet her day to day expenses. On appreciating the arguments of both sides, the learned JMIC accepted the petition filed by the

respondent-wife and granted her maintenance of Rs.4,000/- per month vide order dated 20.11.2019. Aggrieved by the same, the respondent-wife filed an appeal praying for increasing the maintenance granted @ Rs.4,000/- per month to the tune of Rs.10,000/- per month, which was accepted by the learned Additional Sessions Judge and granted interim maintenance of Rs.10,000/- per month vide order dated 26.10.2021.

Learned counsel for the petitioner has vehemently contended that the view taken by learned Appellate Court is totally unsustainable in the eyes of law. He submits that the petitioner has produced oral as well as documentary evidence on record. He submits that the petitioner and respondent No.1 were married on 3.6.2009 and they lived together for 10 years. The respondent-wife left the matrimonial home not because of the cruelty and harassment by the petitioner, however, she was not ready to live with the parents of the petitioner and wanted to live separately, which was refused by the petitioner. He submits that the respondent-wife deserted and neglected the petitioner since March 2019 without any rhyme and reasons. The petitioner convened Panchayat for settling the dispute amicably, however, the same remained unsuccessful due to the adamant behaviour of the respondent-wife. He has submitted that the respondent-wife has filed the petition only to extract money and thus, has levelled false and frivolous allegations. He has submitted that the respondent-wife has not produced any salary certificate or income proof of the petitioner and thus, there being no evidence on record regarding the income of the petitioner, the learned Appellate Court had drawn wrong conclusion in increasing the maintenance from Rs.4,000/- per month to Rs.10,000/- per month. He also submits that the agricultural land measuring 103 Kanal 14 marlas taken into

consideration by the Courts below belongs to the father of the petitioner and which is not in his name, thus, the view taken by the learned Appellate Court, is totally unsustainable in the eyes of law and same deserves to be set aside.

Heard.

The relationship between the husband and wife is not disputed. They both got married on 3.6.2009 and blessed with a son. Evidently, the wife is living with the parents and has the responsibility of a minor. There is nothing on record showing that the respondent-wife has any independent source of income. Besides this the petitioner has failed to produce any evidence on record substantiating the allegations that the respondent-wife left the matrimonial home alongwith the minor without any rhyme and reasons. The learned Courts below have taken into consideration the agricultural land measuring 103 Kanal and 14 Marlas owned by the father of the petitioner, which may not be in the name of the petitioner, however, for consideration of maintenance to be granted the Court is to justify in taking into consideration the overall facts and circumstances on record and does reasonable guess work as well. The petitioner is the husband of respondent No.1, who has the responsibility of a minor as well, without any independent source of income. The Court cannot shut its eyes to the plight of a mother looking after herself and a minor without their being any independent source of income. The petitioner is an able bodied person. As per the law settled by Hon'ble Supreme Court in plethora of judgments, the husband is legally and morally responsible to look after his wife and children. The petitioner cannot be absolved of his responsibility and duties towards his wife and the minor child. The learned trial Court had granted

maintenance of only Rs.4,000/- per month for the wife and the minor. Keeping in view the circumstances prevalent, the maintenance of Rs.4,000/- per month for both the mother and the minor was totally unjustifiable and the learned Appellate Court has rightly enhanced the same to Rs.10,000/- per month. In the overall facts and circumstances, this Court finds no infirmity in the order passed by the learned Appellate Court, thus, the petition being devoid of any merit, is hereby dismissed.

20.7.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No