

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

(115)

**CRR(F)-57-2022
DATE OF DECISION:- 11.02.2022**

VIKAS KAKKAR

...PETITIONER

VERSUS

MUKTI AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Yashvardhan Sharma, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

Challenge in the instant revision petition is to the order dated 28.10.2021 passed by the learned Additional Principle Judge, Family Court, Yamunanagar, whereby on an application filed by the respondents under Section 125 of the Code of Criminal Procedure, 1973 (for short “the Code”), the Court has ordered interim maintenance of Rs.7,000/- per month for each of the respondents.

Facts, in brief, may be noticed. Petitioner was married to respondent No.1 on 09.10.2010 at Delhi. They got married secretly without the knowledge of the family members, who later on performed their marriage at Jagadhari on 04.11.2011 in the presence of the family members and friends. However, differences arose between the parties and respondent No.1 was thrown out of the matrimonial home in July 2021, but was rehabilitated on the intervention of the Panchayat. After the birth of the daughter on 11.03.2013, she was harassed and maltreated, demand of car and cash was made and on 09.06.2015, she was compelled to leave the matrimonial home with her daughter. In September 2017, she filed a petition under Section 125 of the

Code seeking maintenance on the ground that she is not in a financial position to maintain herself and her daughter, whereas the petitioner is earning more than Rs.2.5 lacs per month and is running a factory under the name and style of M/s Swastik Sales. She has submitted that she is dependent upon her parents and is entitled to Rs.1 lac per month as monthly maintenance and litigation expenses of Rs.33,000/-. Upon being served, the petitioner appeared and contested the petition on merits, although he has admitted the relationship between the parties as well as the birth of the child, but denied the other factual averments. In his reply to the application for interim maintenance, the petitioner has submitted that he is doing a private job and earning Rs.8,000/- per month, whereas respondent No.1 is a working woman and has a monthly salary of Rs. 50,000/-. Vide order impugned herein, the Family Court accepted the application filed by the respondents for interim maintenance and awarded the maintenance amount as noticed above with a clarification that maintenance allowance paid in any other petition between the parties, shall be adjusted.

I have heard counsel for the petitioner and considered the arguments addressed by him.

The relationship between the parties and the birth of a daughter, who is a minor, out of the wedlock are admitted. The parties have levelled serious allegations against each other, but in absence of any evidence in support, this Court does not deem it appropriate to deal with them at this stage. Affidavits of assets, income and expenditure have been filed by the parties before the Family Court, but except for the opening page of the affidavit of the petitioner, Annexure P-4, no other document has been placed before this Court to establish the income of the petitioner. A perusal of the order dated 29.09.2019, Annexure P-1, passed under the Protection of Women

from Domestic Violence Act, 2005, (for short “the DV Act”), whereby Rs.3,000/- per month has been awarded as interim maintenance to respondent No.1, shows that the gross income of M/s Swastik Sales, which the petitioner was running, was Rs.4,59,213/- and Rs.7,37,289/-, respectively, as per the Income Tax return for the financial years 2013-2014 and 2015-2016, corresponding to assessment years 2014-2015 and 2016-2017. The reason for not filing any return thereafter is apparent as respondent No.1 had instituted petitions under the DV Act as well as Section 125 of the Code against the petitioner in September 2017, whereby she had claimed maintenance from him. Be that as it may, the petitioner being the head of the family, cannot absolve himself of the responsibility to maintain his wife and daughter.

Keeping in view the legislative intent behind incorporation of Section 125 of the Code, this Court is of the view that award of monthly maintenance of Rs.7,000/- for each of the respondents cannot be said to be excessive. There is no illegality or impropriety in the order passed by the Family Court.

The petition being bereft of merit, 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 the evidence led by the parties before the Family Court.

(SUVIR SEHGAL)
JUDGE

11.02.2022
Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No