

CRR(F)-1238-2022
Date of Decision:06.12.2022

Versus

Rajesh Bhardwaj, J.

Succinctly facts of the case are that the petitioner was married with respondent No.1 and thereafter, they were blessed with a son. Thereafter, matrimonial discord took place between the husband and wife and hence, the wife left the matrimonial home alongwith the minor. She filed a petition under Section 125 Cr.P.C. seeking maintenance for herself and the minor-son. Learned Family Court after hearing both the sides, considered the income of the petitioner-husband between Rs.9,000/- to 10,000/- per month and allowed the petition by directing the petitioner to pay Rs.1,500/- per month to each of the respondents i.e. the wife and the minor-son vide impugned order dated 15.09.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present revision petition.

Learned counsel for the the petitioner vehemently contended that the learned Family Court has drawn a wrong conclusion in granting interim maintenance of Rs.1,500/- per month to each of the respondents. He submits that it was the second marriage of the respondent-wife and third marriage of the present petitioner. He has submitted that the learned Family Court has failed to appreciate the evidence on record that since the inception of marriage, the respondent-wife was pressurizing the petitioner to transfer the land in the name of her son from her previous marriage. However, the petitioner-husband has shown his inability in accepting the same, which became the bone of contention for the dispute between them. He submits that the petitioner is working as a helper on the truck and earning hardly Rs.9,000/- per month. He has submitted that the petitioner has the responsibility of maintaining his two children from the first marriage and old aged father, but the learned Family Court has failed to appreciate the same. He submits that in view of the submissions made, the impugned order passed is totally unsustainable in the eyes of law and same deserves to be set aside.

Heard.

The relationship between the petitioner-husband and the respondent-wife is not in dispute. As submitted before this Court, this was the second marriage of the respondent-wife and third marriage of the petitioner-husband. There is nothing on record to show that respondent-wife has any independent source of income and hence, she is dependent upon the income of her husband only. Besides herself she has the responsibility to maintain minor son as well. The provisions of Section 125 Cr.P.C. are for preventing destitution and vagrancy. 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 child. As per the law settled by Hon'ble Supreme Court in case of Rajnesh Vs. Neha, 2021(2) SCC 324, the estranged wife has right of living standard, which she was enjoying while living with the husband. The petitioner-husband is earning Rs.9,000/- per month. Keeping in view the facts and circumstance of the case and the income of the petitioner, the learned Family Court has granted the maintenance of Rs.1,500/- per month to each of the respondents, which in any case cannot be said to be on higher side. In the overall facts and circumstances, this Court finds no infirmity in the order passed by the learned Family Court, thus, the petition being devoid of any merit, is hereby dismissed.

06.12.2022
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/Nos