

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

CRR(F)-1218-2022

Date of Decision: 06.12.2022

Sachin

..... Petitioner

Versus

Jyoti and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sushil Sheoran, 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 02.09.2022 passed by the learned Additional Principal Judge, Family Court, Maham Rohtak, whereby maintenance @ Rs.6,000/- per month has been awarded to respondent No.2-minor.

Succinctly the facts of the case are that the petitioner was married with respondent No.1 on 27.02.2016. After marriage, they were blessed with a son, who is respondent No.2 herein. Due to some temperamental differences, matrimonial discord took place between the husband and wife and thus, the wife left the matrimonial home. Thereafter, she filed petition under Section 125 Cr.P.C. praying for grant of maintenance for herself and minor in the sum of Rs.20,000/- per month. Learned Family Court after hearing both the sides, partly allowed the same, whereby, maintenance qua the respondent-wife was declined, however, the same was allowed for minor-respondent No.2 @ Rs.6,000/- per month alongwith litigation expenses to the tune of Rs.11,000/- vide impugned order dated 02.09.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the learned trial Court has fallen in error in drawing wrong conclusion. He submits that the respondent-wife is in Government service and earning Rs.58,414/- per month, whereas, the petitioner is earning Rs.55,000/- per month from his private job. He submits that for maintaining the child, it is the duty of both the parents, however, learned Family Court has burdened only the petitioner-father. He submits that the petitioner duly led evidence regarding his liability of Rs.33,000/- per month for paying EMI of loan out of his salary of Rs.55,000/- per month. He further submits that the petitioner had taken a specific plea that if the respondent-wife is unable to maintain the minor, then he is ready to take the custody of the minor, but the learned Family Court ignored the same. He submits that the respondent-wife left the matrimonial home without any sufficient reason, thus, in view of the provisions of Section 125(4) Cr.P.C., she is not entitled for filing petition under Section 125 Cr.P.C. He submits that the view taken by the learned Family Court of granting maintenance @ Rs.6,000/- per month is totally unsustainable in the eyes of law and thus, deserves to be set aside.

Heard.

Admittedly, the relationship between the petitioner and respondent No.1-wife is not in dispute. After hearing both the sides, the learned Family Court has declined maintenance qua the respondent-wife, however, the petition had been partly allowed by directing the petitioner to pay maintenance to the minor @ Rs.6,000/- per month. The contentions raised by learned counsel for the petitioner that he is paying EMI for loan is not sufficient enough to discharge him from his responsibilities towards his child. Admittedly, the petitioner is the father of respondent No.2 and by no

stretch of imagination, he could be absolved of his legal and moral responsibilities towards his family. The petitioner is an able bodied person. Even if the father is not earning even then he is bound to look after his child. The life of the child cannot be compromised by the technicalities pointed out by learned counsel for the petitioner in his arguments. The provisions of Section 125 Cr.P.C. are for preventing destitution and vagrancy. 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 Rajnish Vs. Neha, 2021(2) SCC 324, the living expenses of the child would include expenses for food, clothing, residence, medical expenses etc. Admittedly, the petitioner is earning Rs.55,000/- 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.6,000/- per month to respondent No.2-minor, 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