

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 126

Criminal Revision No.F-116 of 2023

Date of Decision: January 23, 2023

Deen Mohammad

..... PETITIONER(S)

VERSUS

Jarina and another

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Satish Chaudhary, Advocate for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition against the order passed by the Family Court, dated 07.12.2022, whereby the petitioner has been directed to pay interim maintenance of Rs.2,500/- per month each to respondent No.1-wife and the minor child, who is in wife's custody. He has also been directed to pay Rs.2,000/- as litigation expenses.

Learned counsel for the petitioner contends that the amount is on a higher side and it has been wrongly awarded. The contention is that the petitioner, who is a retired Army soldier, is not earning anything and the respondent-wife is living in adultery. Therefore, no maintenance is payable.

The arguments advanced by learned counsel have no merit. The allegation that the respondent-wife is living in adultery, is not substantiated by any material or evidence on record. There is no finding of any Court to that effect nor any could be pointed out by learned counsel for the petitioner. So far as the earning capacity of the petitioner is concerned, it

cannot be believed that despite being an ex-serviceman, he is not able to earn and pay the amount of interim maintenance awarded, which is not on a higher side at all. Besides, the facts canvassed by learned counsel are a matter of trial which is going on.

It has also been stated that the petitioner, infact, has executed a release deed of some land in the wife's favour, which is on record as Annexure P-3. The facts regarding the execution of the release deed, delivery of possession pursuant thereto, as also the fact whether she has any earning out of this land, are a matter of trial and cannot be gone into at this stage.

In view thereof, there is no ground to interfere with the impugned order awarding interim maintenance of Rs.5,000/- per month to both the respondents.

Dismissed.

(Tribhuvan Dahiya)
Judge

January 23, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No