

In the High Court of Punjab and Haryana at Chandigarh

115

CRR(F)- 172 of 2023

Date of Decision: 10.02.2023

Vikram

---Petitioner

versus

Sharmila and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sant Lal Barwala, Advocate
for the petitioner

JAGMOHAN BANSAL, J. (ORAL)

The petitioner, through the instant petition is seeking setting aside of order dated 01.12.2022 whereby Principal Judge, Family Court, Jind has allowed maintenance of Rs. 7,000/- per month to respondents i.e. Rs. 2,000/- to respondent No. 1-wife and Rs. 5,000/- to respondent No. 2-minor daughter of the petitioner (being special child).

Petitioner solemnized marriage with respondent No. 1 on 07.02.2018 according to Hindu rites and ceremonies. A female child was born out of this wedlock. The parties could not co-habit and respondents No. 1 and 2 left company of the petitioner. The respondents, in terms of Section 125 Cr.P.C. preferred petition before Family Court seeking maintenance which came up for consideration before District and Sessions Judge-cum-Principal Judge Family Court, Jind. The Family Court vide impugned order dated 01.12.2022 awarded maintenance of Rs. 2000/- per month to respondent No. 1-wife and Rs. 5,000/- per month to respondent No. 2- daughter of the

petitioner being a special child.

Learned counsel for the petitioner submits that petitioner is admittedly having 5½ acres of agricultural land, however, he is not having income to pay to wife and daughter. The amount of maintenance determined by Family Court is on the higher side.

I have heard counsel for the petitioner and perused the records.

The relevant extracts of order dated 01.12.2022 read as:-

“8. Factually, in the present case, petitioner no.1 asserts that she is unable to maintain herself and her minor daughter and she is totally dependent at the mercy of her parents. Whereas, she urges that respondent husband, is an agriculturist having 5-1/2 acres of agricultural land and running business of dairy farming and is earning more than Rs.70,000/- per month from both sources. Jamabandi has come on record showing the fact that respondent is having agricultural land and thus, it can be safely said that he is having sufficient income.

9. In order to contest the claim of the petitioner no.1, respondent asserts that she being earning hand lady is doing the work of stitching and embroidery, thus capable of earning handsome amount and that she has left the company of the respondent at her own sweet will. However, it is worthwhile to mention here that respondent has

failed to place on record the affidavit qua his income and assets despite many opportunities. Though, his liabilities qua his old parents, is not disputed.

11. Thus, keeping in mind the totality of the circumstances, especially the fact that petitioner No. 2 is a special child, respondent is directed to pay maintenance to the tune of Rs. 2000/- to petitioner No. 1 and Rs. 5000/- to petitioner No. 2 {she being special child} at par to the status/income of respondent along-with litigation expenses of Rs. 5000/- {one time} from the date of filing this petition till its final disposal.”

Keeping in view the present cost of living; social and legal responsibility of the petitioner to maintain his family especially the child who is a special child and maintenance awarded; this court does not find that amount of maintenance fixed by court below is on higher side, thus, the present petition deserves to be dismissed on merits. Accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

10.02.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No