

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRR (F) No.188 of 2023 (O&M)
Date of decision: 05.12.2023

Rahul Vats

... Petitioner

Vs.

Neeraj Lawania and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Anmol Partap Singh Mann, Advocate,
for the petitioner.

MANISHA BATRA, J.

CM No.5893 of 2023

This application has been filed by the petitioner for granting him permission to place on record CIBIL report as Annexure P-1.

For the reasons mentioned in this application, the same is allowed and the copy of report is ordered to be placed on record as Annexure P-1 subject to all just exceptions.

Main Case

1. The present petition has been filed by the petitioner against the order dated 03.01.2023 passed by the learned Additional Principal Judge, Family Court, Faridabad in Maintenance Petition No.MNT/92 of 2018 titled as *Smt. Neeraj Lawania and another v. Rahul Vats*, filed under Section 125 of Cr.P.C. whereby the present petitioner was directed to pay

maintenance to the tune of Rs.5000/- per month to the respondent No.1 and Rs.10,000/- per month to respondent No.2 till he attains the age of 18 years from the date of filing of the petition.

2. Brief facts of the case relevant for the purpose of disposal of this petition as emanating from the record are that the aforementioned petition had been filed by respondent No.1 for herself as well as on behalf of minor respondent No.2 who is her son, on the averments that she got married with the present petitioner on 19.11.2011. Her parents had spent huge amount of money at the time of marriage and sufficient dowry articles were given. The petitioner and his mother were not satisfied with the same and shortly after her marriage, they started harassing her physically as well as mentally on account of demands of dowry. Several times efforts were made by respondent No.1 to settle her in her nuptial home but they proved futile and ultimately she along with the minor respondent was thrown out of her matrimonial house and now she was residing at the mercy of her parents. While submitting that she had no source of income and was unable to maintain herself and her minor son whereas the petitioner was working as an Accountant with one Bonny Polymers Pvt. Ltd. and was drawing salary to the tune of Rs.50,000/- per month and was also fetching income to the tune of Rs.50,000/- per month from agricultural land and by alleging that he had neglected and refused to maintain them, she prayed for directing him to pay maintenance to the tune of Rs.50,000/- per month.

3. On receipt of notice of the petition, the present petitioner had

filed reply and had contested the claim of the respondents. Parties had led evidence in support of their contentions. On appreciating the evidence produced on record and giving deliberations to the contentions raised by the parties, the learned Family Court vide order dated 03.01.2023 partly allowed the petition filed by the respondents and directed the present petitioner to pay maintenance allowance to the extent as discussed above.

4. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law as while passing the same, the learned Family Court ignored the fact that there was ample material on record to show that the respondent No.1 was capable of maintaining herself as well as her minor child. She was a qualified Nurse having completed the course of Auxiliary Nurse and Midwife and General Nursing and Midwife throughout the period when she lived with the petitioner, she had been working with one Pawan Hospital, Ballabgarh and had been drawing income to the tune of Rs.15,000/-. He has further argued that the impugned order has been passed by the learned Family Court without due application of mind and without considering the overwhelming evidence produced on record by the petitioner to the effect that he was an unemployed person being pursuing the course of L.L.B. and was not deriving any income. While assessing maintenance to the tune of Rs.15,000/-, no mathematical calculation or logical assessment had been adopted by learned Family Court. It had also ignored the report of CIBIL showing that the respondent No.1 was fully capable of maintaining herself as well as her child. The determination of

quantum of maintenance was totally baseless. Therefore, it is submitted that the impugned order is liable to be reversed.

5. The respondent No.1 is admittedly legally wedded wife of the petitioner and respondent No.2 is his minor child. Both of them are admittedly living separately from him. The learned Family Court had observed that the respondent No.1 had given cogent and convincing reasons for living separately from the present petitioner. The petitioner is not shown to have brought any material on record to prove that he has made any effort to rehabilitate the respondents with himself at any point of time since when they have started residing separately to him. Learned counsel for the petitioner has heavily relied upon document Annexure P-1 which is report of CIBIL showing that as on 31.07.2018, the income of the respondent No.1 was Rs.15,000/-. There is nothing on record to show that this document was produced in evidence before the learned Family Court and had been duly proved in accordance with law. Rather it is revealed that the present petitioner had claimed that the respondent No.1 was working in Pawan Hospital and to rebut the same, she had examined PW-2 Naushad Ali, HR Manager of the said hospital who deposed that the respondent No.1 had worked as a trainee in the hospital from the year 2014 to November 2018 and no salary was given to her by the said hospital. The petitioner had failed to bring any cogent and convincing evidence before learned trial Court to show that the respondent No.1 was doing some job and was capable of maintaining herself and her minor child. The document Annexure P-1 cannot be taken

into consideration for want of formal proof of the same in accordance with law. Therefore, it is held that the learned Family Court had rightly observed that the respondent No.1 was not proved to be employed.

6. It is revealed from the record that the petitioner had claimed himself to be an unemployed person. The fact that he was holding a degree of MBA (Finance) had, however, not been controverted by him. He is not shown to have produced any affidavit making disclosure of his assets and liabilities despite the fact that clear cut directions have been given and detailed guidelines have been issued by Apex Court in **Rajnesh v. Neha and another**, (2021) 2 SCC 324 for submission of affidavits by the parties in all maintenance proceedings. The Apex Court in a very recent judgment dated 06.11.2023 pronounced in Criminal Appeal No(s). 3446 of 2023 (arising out of SLP (CrI.) No.11954 of 2023) titled as *Aditi alias Mithi v. Jitesh Sharma*, has even given direction to the High Courts to ensure that affidavits are filed by both the parties in maintenance cases in terms of judgment of **Rajnesh's** case (Supra). It will not be out of place to mention here that vide order dated 05.10.2023 passed in this case, a specific direction had been given to the petitioner to furnish such an affidavit as he had not filed the same before the learned trial Court. But today his counsel has submitted during the course of arguments that the petitioner is not willing to furnish any affidavit making disclosure as to source of his income. As such an adverse inference can certainly be drawn against him to the effect that he is intentionally concealing his income. Before learned trial Court, the only

plea that had been taken by him that he was an unemployed person and pursuing course of L.L.B. In the considered opinion of this Court, this plea in itself could not be stated to be sufficient to dislodge the claim of the respondents qua seeking maintenance from him. The respondents are wife and child respectively of the petitioner. It is his moral as well as legal responsibility to maintain them. More so, they are entitled to the same status which is at par with that of the present petitioner.

7. Taking into consideration the fact that for the reasons best known to him, the petitioner did not chose to file any affidavit making disclosure of his assets and liabilities before the Family Court and even before this Court, coupled with the discussion as made above, I am of the considered opinion that no ground has been made out to interfere in the order passed by learned trial Court thereby directing him to pay maintenance to the tune of Rs.5000/- and Rs.10,000/- respectively to the respondents.

8. Accordingly, finding no merit, the petition is dismissed.

9. Miscellaneous application(s), if any, also stand disposed of.

(MANISHA BATRA)
JUDGE

05.12.2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No