

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

CRR(F)-138-2022

Date of decision: 19.12.2023

SUKHPAL

.....Petitioner

versus

RITU AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Manoj Chahal, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present criminal revision petition is for setting aside the impugned order dated 11.01.2022 passed by Family Court, Bhiwani, whereby the petition filed by respondent No.1-wife and respondent No.2-minor child under Section 125 Cr.P.C. was allowed and the petitioner has been directed to pay a sum of Rs.5,000/- per month as maintenance to respondent No.1-wife and a sum of Rs.2,000/- per month to respondent No.2-minor child. Respondent No.2 has been awarded maintenance till he attains the age of majority.

2. Learned counsel for the petitioner contends that the Family Court has failed to appreciate the fact that respondent No.1 has herself left the matrimonial house and took away the child without any fault of the petitioner-husband just to harass and humiliate the petitioner. The Family Court has erred in holding the income of the petitioner-husband at Rs.20,000/- per month without there being any evidence. It was also not appreciated that due to the Covid-19 pandemic situation, the petitioner who was working as a labourer, remained unemployed. The petitioner has been burdened to take huge loan to pay the interim maintenance. The respondent-wife is sitting idle at home, whereas she can also work. As such,

impugned order dated 11.01.2022 passed by Family Court, Bhiwani, is liable to be set aside.

3. I have considered the aforesaid submissions and perused the record.

4. As per the facts on record, on 20.06.2010, marriage between the petitioner and respondent No.1 was solemnized and on 04.06.2016, respondent No.2 was born out of the wedlock. The respondent-wife has alleged in the petition filed by her under Section 125 Cr.P.C. that the petitioner-husband and his family members were not satisfied with the dowry articles. They had been demanding a sum of Rs.5,00,000/- for purchase of a car. The respondent-wife failed to fulfill the said demand. Even, the brother of the petitioner namely Kamal, used to abuse the father of respondent-wife. The petitioner-husband filed a divorce petition against the respondent-wife. Respondent No.1 (wife) is unable to maintain herself and the minor child whereas the petitioner-husband, who is a person of means, has refused to maintain his wife and the minor child.

5. A perusal of the paper book further reveals that the petitioner had contested the petition before the Family Court, Bhiwani by way of filing a reply wherein, it was alleged that the respondent-wife refused to prepare meal and was under the influence of her parents. She was having no regards for the petitioner-husband and his family members. It was alleged that the petitioner is not the father of respondent No.2-minor child and DNA profile of the petitioner and respondent No.2 be matched. It was further alleged that respondent-wife is Diploma holder as a “Multipurpose Health Worker” and she is receiving a sum of Rs.4,000/- per month as interim maintenance in another petition pending between the parties.

6. The Family Court considered the statements of PW1-Ritu, PW2-Deepak and the income certificate of the petitioner. Apart from the evidence

led by the petitioner-husband, the petitioner himself appeared as PW-1 and examined his father as RW-2 and their statements were also considered.

The Family Court observed that the relationship between the parties is not disputed. It was observed that respondent-wife and respondent-minor child are not living with the petitioner. Considering the fact that divorce petition has been filed by the petitioner-husband, the Family Court observed that the petitioner-husband did not make any efforts to bring back his wife and child to the matrimonial home. He did not file any petition for restitution of conjugal rights. Merely pleading that the petitioner-husband wants to keep his wife along with him, is not enough to show his *bona fide*.

6.1 With regard to the allegations of adultery, levelled by the petitioner-husband against his wife, it was observed by the Family Court that no evidence has been led to prove that the paternity of the minor child is not that of the petitioner, as such, the said contention was disbelieved.

6.2 The petitioner-husband did not file any affidavit regarding his assets and liabilities and on the basis of the evidence led by the respondent-wife, the Family Court concluded that the petitioner-husband is working as a Teacher in a private school, as such, he was directed to pay a sum of Rs.5,000/- per month as maintenance to respondent-wife and Rs.2,000/- per month to respondent-minor child, under Section 125 Cr.P.C.

7. In view of the above facts, the issuance of notice to the respondents is dispensed with.

8. After considering the submissions made by the learned counsel for the petitioner and perusing the record, I am of the considered opinion that learned counsel for the petitioner has failed to point out any illegality or irregularity in the

impugned order dated 11.01.2022. It is an admitted fact that the petitioner-husband

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I attest to the accuracy and
integrity of this order/judgment.

has filed the divorce petition, as such, it is not disputed that the parties are living separately. The petitioner could not show that he has made any arrangements for taking care of the financial needs of his minor child (respondent No.2). The petitioner-husband failed to lead any evidence before the Family Court that the respondent-wife is working and is able to sustain herself as well as the minor child of the parties. Apart from this, the petitioner-husband has levelled allegations against his wife that the paternity of respondent-minor child is doubtful and the petitioner-husband is not the genetic father of respondent No.2. No such evidence has been led by the petitioner-husband to prove the said allegations which are serious in nature. Levelling such allegations against the paternity of a child without any proof shows the conduct of the petitioner.

9. Consequent to the above discussion, this Court is of the considered opinion that there is no illegality or irregularity in the impugned order dated 11.01.2022 and the findings arrived at by the Family Court, Bhiwani is well-reasoned.

10. Accordingly, the present criminal revision petition is devoid of merits and is dismissed.

11. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

19.12.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No