

In the High Court of Punjab and Haryana at Chandigarh

112

CRR(F)-243 of 2023(O&M)

Date of Decision: 16.02.2023

Amandeep Kaur

---Petitioner

versus

Gursewak Singh

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. IPS Kohli, Advocate
for the petitioner

JAGMOHAN BANSAL, J. (ORAL)

The petitioner, through the instant petition is seeking modification of order dated 17.11.2022 whereby Additional Principal Judge, Family Court, Patiala, (Camp Court at Samana) has allowed interim maintenance of Rs. 4,000/- per month to the petitioner.

The marriage of the petitioner was solemnized with respondent on 08.02.2012 according to Sikh rites and ceremonies. Two children were born out of this wedlock. Both the children at present are with respondent, however, petitioner is not staying with respondent. The petitioner had lodged FIR No. 121 dated 24.12.2012 against the respondent at Women Police Station, Patiala under Sections 406 and 498-A IPC. The petitioner and respondent filed petitions against each other under different Sections of different Acts.

At one stage matter was compromised and petitioner started staying with the respondent, however, as per petitioner, she was thrown out of home on 19.03.2021. The petitioner moved an application on 28.10.2021 under Section 125 Cr.P.C. seeking maintenance which came up for consideration before Additional Principal Judge, Family Court, Patiala who vide impugned order dated 17.11.2022 has awarded maintenance of Rs. 4000/- per month to the petitioner. The relevant extracts of findings recorded by the Family Court read as:-

“6. In the instant case, the relationship between the parties is admitted in as much as petitioner is the legally wedded wife of the respondent. Although there are allegations and counter-allegations raised by petitioner and the respondent in respect of conduct and comportment of each other, but the same can not be conclusively decided at this stage as such allegations have to withstand a strict test of evidence. The sanctity and legal effect of these allegations can be decided only after the parties lead their evidence. At this protem juncture, a few factors which go in favour of petitioner, need to be pondered over. Firstly it is lucidly forthcoming that the respondent is an able bodied person and is not suffering from any such medical infirmity which may mitigate his earning capability. Secondly, he himself has admitted that he is working as Senior Assistant in the office of DIG, IRB, Patiala and after deducting funds, his carry home salary is Rs.66,000/- per month but has relied upon his three loan documents as per which he is making payment of almost Rs.50,000/- as monthly installments. Thirdly, there is nothing concrete on record to show that the petitioner is earning sufficient income to maintain herself or that she has discernible financial sources at her disposal. The petitioner has affirmed on oath that

she is unemployed. Admittedly, both the children of the parties are residing with the respondent and he is looking after and maintaining them. Further the mother of the respondent is also dependent upon him.

7. *Therefore taking into consideration the averments raised by both the sides, being alive to the escalating cost of bare necessities of life, earning capacity and liabilities of the respondent, the standard of life which petitioner used to enjoy earlier and the totality of all the circumstances discussed above, this court is of the considered opinion that the interest of justice would be met if the respondent is directed to pay a sum of Rs.4000/- (Rs. Four Thousand Only) per month to petitioner by way of interim maintenance from the date of application and Rs.3000/- as costs of litigation and it is ordered accordingly The application stands disposed off. Needless to say that nothing said hereinabove shall have any hearing upon the merits of the case.”*

Learned counsel for the petitioner inter alia contends that salary of the respondent is more than Rs. 75,000/- per month and as per respondent himself, he is able to make payment of Rs. 50,000/- per month towards loan installments. The children are admittedly with the respondent, however, respondent is duty bound to pay reasonable amount to the petitioner towards maintenance. No body can maintain with a sum of Rs. 4000/- per month since cost of living nowadays is very high.

I have considered arguments of learned counsel for the petitioner and perused the records.

The Family Court vide impugned order has awarded

interim maintenance and determination of final maintenance is still pending before the Family Court. The prime grievance of the petitioner at this stage is that there is likelihood that Court would be swayed by interim order while passing final order.

Without commenting upon merits of the case, the present petition is disposed of with a request to Family Court to expeditiously adjudicate final maintenance and preferably within three months from the date of receipt of certified copy of this order, without being influenced by its findings recorded at the time of passing impugned order.

(JAGMOHAN BANSAL)
JUDGE

16.02.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No