

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

113

CRR(F)-162-2022

Date of Decision:20.01.2023

Subhash Shokken

..... Petitioner

Versus

Rinkey

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Jagjeet Beniwal, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking setting aside of order dated 10.12.2021 whereby Additional Principal Judge, Family Court, Bhiwani, in terms of Section 125 of Cr.P.C. has granted interim maintenance of Rs.10,000/- per month to the respondent.

Learned counsel for the petitioner *inter alia* contends that the marriage of the petitioner with respondent was solemnized on 26.02.2017 according to hindu vedic rites and ceremonies. The respondent on 09.04.2019 filed petition under Section 125 Cr.P.C. seeking maintenance which came to be partly allowed by way of impugned order dated 10.12.2021. The Family Court has awarded a sum of Rs.10,000/- per month as maintenance allowance which is excessive because income of the petitioner has been assessed on assumption and presumption. There is no concrete evidence to conclude that monthly income of the petitioner is Rs.40,000-50,000/-. The petitioner is striving hard to earn his livelihood, thus, the Trial Court has wrongly granted the maintenance.

I have heard argument of learned counsel for the petitioners and scrutinized the record.

The Family Court, vide order dated 10.12.2021 has awarded maintenance of Rs.10,000/- per month. The relevant extracts of the order read as:-

“20. So far as question no. 3 is concerned, as per the respondent's Version, he is a casual labour and earns Rs.18,000/- per month. A perusal of affidavit of respondent reveals that he is Bachelor of Business Administration. His monthly expenses is 10,000/- and monthly income is Rs.8,000/-. On the other hand, and as per the petitioner's version, the respondent runs a transport company in the name of Yug. Transport. He possesses six trucks and two vehicles for private use besides having rental Income, thus he earns Rs.3 lacs per month.

21. A perusal of cross-examination of respondent reveals that he is working as part time helper at Peeragathi in Delhi. However, he did not disclose the name of his employer nor dared to examine him to show his exact income. He admitted the house whose photograph is Ex.P1, is under their occupation. He admitted that some portion of the same has been let out. When the respondent resides in Delhi a posh area then, it cannot be expected that he is a casual labourer (a BBA pass young person) and earns only Rs.8,000/- per month. There nothing on record which could show that the respondent is suffering from some physical ailment impairing his caring capacity.

X

X

X

X

24. In view of the aforesaid discussion, the respondent who is B.B.A. qualified, might be earning in between Rs.40,000-50,000/- per month. Striking a balance between the needs of both the parties, this Court thinks it appropriate to grant monthly maintenance to the tune of Rs.10,000/- to the petitioner. Accordingly, respondent is directed to pay amount of Rs.10,000 per month to the petitioner as maintenance from the date of filing of the present petition. The petition stands allowed with no as to costs. The amount of interim maintenance, if any, shall be adjusted in this amount. The position stands disposed of accordingly. File be consigned to record room, after due compliance.”

The petitioner is morally, socially and statutorily duty bound to maintain his wife and children, if any. The petitioner cannot run away from his responsibility. The attempt of petitioner seems to deflect from his responsibility which neither can be appreciated nor permitted by Court.

Keeping in view, cost of living, amount of maintenance awarded, qualification and status of parties, this Court does not find that amount of maintenance fixed by court below is on the higher side, thus, the present petition deserves to be dismissed and accordingly dismissed.

20.01.2023

(JAGMOHAN BANSAL)

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JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No