

111

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

CRR(F)-280-2022 (O&M)

Date of Decision:- 18.05.2023

CHATTER BEDI SHARMA @ GOLA

....Petitioner

Vs.

DEEPAK SHARMA AND ANR.

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Nirmaljeet Singh Sidhu, Advocate for the petitioner.
Mr. Ankit Chauhan, Advocate for
Mr. J.K. Singla, Advocate for the respondents.

AMARJOT BHATTI, J. (Oral)

1. The petitioner Chatter Bedi Sharma @ Gola has filed revision against the impugned order dated 18.02.2022 passed by Principal Judge, Family Court, Bathinda Camp at Phul vide which the Court has granted interim maintenance @ Rs.5,000/- per month in favour of respondent No.1 wife Deepak Sharma and at the rate of Rs.7,000/- per month to respondent No.2 son Pratham Sharma with a prayer that the aforesaid order is against the facts of the case and is liable to be reversed and set aside.

2. As per the facts of the case Deepak Sharma wife and Pratham Sharma son have filed an application under Section 125 Cr.P.C. for grant of maintenance to the tune of Rs.20,000/- per month i.e. Rs.10,000/- per month each against Chatter Bedi Sharma @ Gola in which the aforesaid

petitioners (respondents in this case) had filed application for ad-interim maintenance which was granted by the learned Principal Judge, Family Court Camp at Phul, Bathinda by passing impugned order dated 18.02.2022.

3. Learned counsel for the petitioner Chatter Bedi Sharma @ Gola (respondent in the main case) raised the issue that the learned Principal Judge, Family Court has failed to consider that Deepak Sharma wife was never turned out of the matrimonial home nor the present petitioner had ever neglected and refused to maintain her. In-fact, she left the matrimonial home on her own. It was the petitioner husband who convened a Panchayat to bring her back but she refused to return in the matrimonial home. Secondly Deepak Sharma wife is having sufficient means to maintain herself. She is doing stitching and knitting work and therefore, she got sufficient income to maintain herself. It is further pointed out that respondent No.2 Pratham Sharma has attained majority as his date of birth is 15.02.2003. Copy of school record is Annexure P-1 and P-2. Therefore, he cannot claim maintenance from the present petitioner.

On the other hand, the present petitioner is job less. He is not running any shop nor he is owner of any property. The learned Principal Judge Family Court, Camp at Phul, Bathinda has wrongly granted maintenance in favour of wife as well as major son total to the tune of Rs.12,000/- per month which the present petitioner is unable to pay. To support his arguments, the learned counsel for the petitioner has relied upon the authority in **Special Criminal Application (Maintenance) No.5202 of 2015, titled as Nitaben Dinesh Kumar Oza Vs. Dinesh Kumar Ishwarlal Oza and Anr. of Hon'ble Gujarat High Court** where

it was specifically held that 'a major son is not entitled in law to claim maintenance from his father unless such son has been suffering from any physical or mental abnormality or any injury resulting in his inability to maintain himself. In that case son become major and claimed maintenance on the ground that he has not completed his education. It was alleged that father though has moral duty to maintain his son but he is not legally bound to give maintenance.' By relying upon the aforesaid judgment, learned counsel for the petitioner prayed that the ad-interim maintenance granted in favour of Pratham Sharma may kindly be set aside. The claim of wife Deepak Sharma is also without justification as she herself is capable of maintaining herself. It is prayed that the impugned order dated 18.02.2022 may kindly be set aside.

4. On the other hand, learned counsel representing the respondents took the stand that the petitioner has deliberately neglected and refused to maintain his wife as well as son who was school going child. The petitioner has taken contradictory stand to avoid his liability to provide maintenance to them. Counsel for the respondents has placed on record attested copy of affidavit furnished by the petitioner regarding his assets and liabilities which is contrary to the stand taken by him in the present revision. In fact the respondent is a man of means. He is having a car as well as immovable property. Recently, he had sold a part of property and purchased other property which is duly mentioned in the impugned order dated 18.02.2022. The facts and circumstances of the present case were rightly considered by the learned Principal Judge Family Court, Camp at Phul, Bathinda. There is nothing on record to show that Deepak Sharma respondent No.1 is earning hand or Pratham Sharma respondent is in a

position to maintain himself. There is no error committed by the Principal Judge, Family Court, Camp at Phul, Bathinda while passing the impugned order granting interim maintenance in favour of the wife and the son. It is prayed that the revision preferred by the petitioner may kindly be dismissed.

5. I have considered the arguments advanced before me. It is not disputed fact that Chatter Bedi Sharma @ Gola got married with Deepak Sharma on 04.05.2002. Due to their matrimonial dispute they got separated on 13.09.2019. It is further not disputed that Pratham Sharma the respondent No.2 is their son who was born on 15.02.2003 who at present is residing with his mother Deepak Sharma respondent No.1. The present respondents had filed petition under Section 125 Cr.P.C. claiming maintenance from Chatter Bedi Sharma @ Gola in which they filed application for the grant of interim maintenance. The learned Principal Judge, Family Court Camp at Phul, Bathinda vide impugned order dated 18.02.2022 granted interim maintenance in favour of Deepak Sharma @ Rs.5000/- per month and in favour of Pratham Sharma @ Rs.7,000/- per month. Feeling aggrieved of this order, the present revision has been filed. Learned counsel for the petitioner firstly raised the issue that Deepak Sharma is doing stitching and knitting work therefore she has sufficient means to maintain herself. However, the present petitioner failed to produce any record on the file before the learned Principal Judge Family Court, Camp at Phul, Bathinda to establish any source of income of respondent No.1 Deepak Sharma. In the present revision the petitioner claimed that at present he is jobless having no source of income. However, the learned counsel representing the petitioner himself placed on record

the affidavit regarding assets and liabilities of Chatter Bedi Sharma @ Gola according to which he himself admitted that he has got 5 kanal and 6 marla of land in Kotha Guru, Tehsil Rampura Phul, District Bathinda. He further admitted that he is having one Swift VDI Model 2015 which he had taken on loan. Even otherwise the present petitioner is able bodied person. He cannot escape his liability to provide maintenance to his legally wedded wife as well as his son.

The petition under Section 125 Cr.P.C. was filed on 01.11.2019. Even considering the date of birth of Pratham Sharma i.e. 15.02.2003 he was minor at the time of filing of that case, as his age comes out to be approximately 16 years 8 months. Therefore, at the time of filing of petition under Section 125 Cr.P.C., the respondent No.2 was minor and he attained the age of majority subsequently. Therefore, considering the aforesaid facts the interim maintenance granted in favour of Deepak Sharma @ Rs.5,000/- per month and for the school going son Pratham @ Rs.7,000/- per month is neither towards the higher side nor it is unjustified. Both the respondents need expenses for their food, clothing, expenses of school and tuition, etc. The stand taken by the petitioner that respondent No.2 has attained majority, therefore, he is not liable to pay maintenance that aspect can be considered at the final stage while deciding the case on merits after recording of the evidence by Principal Judge Family Court, Camp at Phul, Bathinda. The Court is to see whether Pratham Sharma is still studying or he has started working and the Court is to further consider whether the major son can claim educational expenses from his father irrespective of the fact that he has attained majority or not.

Considering the aforesaid facts, I do not find any reason to interfere in the impugned order dated 18.02.2022 passed by the learned

Principal Judge Family Court, Camp at Phul, Bathinda and the same is accordingly upheld.

The revision preferred by the petitioner is, accordingly, declined.

18.05.2023

snd

(AMARJOT BHATTI)
JUDGE

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