

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

116

CRR(F)-589-2023

Date of Decision : 21.04.2023

Kamlesh

..... Petitioner

Versus

Ajit Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Vikas Gulia, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 401 Cr.P.C. is seeking setting aside of order dated 07.02.2023 whereby Additional Principal Judge, Family Court, Sonipat , in terms of provisions of Section 125 of Cr.P.C., has declined maintenance allowance.

Learned counsel for the petitioner *inter alia* submits that the marriage of the petitioner was solemnised with respondent about 50 years back. The petitioner at present is staying with her daughter and respondent is living alone. He is retired from Indo-Tibbat Boarder Police and getting handsome pension apart from salary as Estate Manager. The Family Court has declined prayer of the petitioner seeking maintenance in terms of Section 125 Cr.P.C. The petitioner is having no source of income and respondent is having source of income, thus, in terms of Section 125 Cr.P.C., the respondent is liable to pay maintenance.

I have perused the record and heard arguments of the learned counsel for the petitioner.

The findings recorded by Family Court while declining the prayer of the petitioner read as :

“11. Further, a careful perusal of account statement of the petitioner would reflect that apart from the FD of Rs.16,00,000/- there are other heavy credit and debit entries contained in there. The respondent has placed on record complete details of amount given by him to his wife, son and daughter in the shape of document Mark R4 with date of each and every payment. In order to verify these entries, the petitioner was directed to produce her account statement on record and the account statement so produced perfectly tallies with the entries contained in document Mark R4. The document Mark R4 shows payment by the respondent to petitioner in her bank account since the year 2016 till year 2020. The plea of respondent that he used to pay regular amounts to the respondent prior to the sale of 250 square yards plot by the petitioner is corroborated by the entries of the account statement of petitioner wherein there are regular credit entries of Rs.10,000/- from 02.01.2016 till 06.06.2016, credit entries of Rs.15,000/- from 05.07.2016 till 17.11.2016 and again several credit entries to the tune of Rs.10,000/- uptill 25.12.2017 and after that, the credit entries of Rs.20,000/- and Rs. 30,000/- since 28.02.2018 till 08.06.2020. This account statement would reflect that there was regular deposition of cash and withdrawal thereof in the bank account of petitioner since the year 2016 till 2020 which would support and corroborate the case of respondent that he used to pay regular amounts to the petitioner. These entries would also falsify the plea of petitioner in the petition that respondent has stopped paying maintenance to her for the last four months (preceeding the filing of petition). The petition has been filed in the

month of August, 2020 whereas entries of account statement would reflect that an amount of Rs.17,000/- was transferred to her on 21.04.2020 and an amount of Rs.20,000/- was transferred to her on 08.06.2020, from the account of respondent. Thus, her plea that she has not been paid any maintenance prior to four months of filing of petition is incorrect.

12. Coming further, a perusal of account statement of petitioner would reflect that she received a credit entry of Rs.5,00,000/- on 06.10.2020 through cheque transfer, credit entry of Rs.3,85,000/- on 06.11.2020 through cash deposit, credit entry of Rs. 15,00,000/ on 07.11.2020 through cheque transfer, credit entry of Rs.1.17.411 on 18.03.2021 on account of maturing of fixed deposit, credit entry of Rs.1,07,650/- on 18.03.2021 on account of maturing of fixed deposit, credit entry of Rs.73942/- on 18.03.2021 itself on account of maturing of FD, credit entry of Rs. 1,50,000/- on 01.01.2022 through transfer. Credit entry of Rs.16,58,000/- on account of maturing of FD on 10.05.2022, credit entries of Rs.1,00,000/- on account of cash deposit self on 29.08.2022. The account statement of petitioner would thus reflect that she is having heavy cash in her account and is earning handsome interest income thereby. These are entries of cash deposit in her account by herself and heavy withdrawal entries which would show that she is having sufficient sources with her, apart from the immovable properties owned by her. In these circumstances, keeping in view the movable and immovable properties of the petitioner she cannot be termed as a woman 'unable to maintain herself' and is not entitled to maintenance at all. On the other hand, the averments of the respondent appear to be more probable being supported by the documents placed on record. As such, petitioner is not entitled to any maintenance allowance from the

respondent. In these circumstances, keeping in view the over all scenario, the petitioner is not entitled to any maintenance allowance and present petition is hereby dismissed with costs. Memo of cost be drawn accordingly. Consign the file to records.”

From the perusal of findings recorded by trial court while declining maintenance allowance, it is succinctly clear that trial court has duly considered existence of marriage between the parties, income of the petitioner, income of the respondent, responsibility of the respondent towards his legally wedded wife and children. It is settled proposition of law that amount of maintenance awarded must be in consonance with status of the family and income of the husband as well wife. The object of maintenance is to prevent the wife and children from being driven to destitution and vagrancy, however, courts cannot fix amount of maintenance contrary to income and status of parties. The respondent being husband has social, ethical and statutory responsibility to maintain his family. The trial court has taken care of financial status of the petitioner and thereafter declined prayer of the petitioner.

Finding no factual or legal infirmity in the impugned order, warranting interference by this court, present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

21.04.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>