

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CRR(F) No.816 of 2023
Date of Decision: 07.11.2023

Ram Singh

... Petitioner

Versus

Smt. Bhagwati

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bhupender Ghanghas, Advocate,
for the petitioner.

MANISHA BATRA, J.

1. The instant revision petition has been filed by the petitioner challenging the order dated 21.04.2023 passed by learned Principal Judge, Family Court, Bhiwani (Camp Court at Tosham) in Maintenance Petition No.11 of 2023 titled as *Smt. Bhagwati v. Ram Singh* which had been allowed and direction been given to the present petitioner-husband to pay an amount of Rs.15,000/- per month as maintenance to his wife i.e. the respondent.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the respondent-wife filed the aforementioned petition under Section 125 of the Code of Criminal Procedure on the averments that she was married with the petitioner about 45 years back. The petitioner-husband who was running a security agency at Andhra Pradesh from the last 30 years used to visit his native village wherein the wife was residing with her children once/twice a year. The respondent-wife along with her children also occasionally visited the petitioner at Andhra

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Pradesh. On 21.01.2021, the petitioner had come to his native village for the purpose of inauguration of a temple which was got constructed in the village by him and was being renovated. At that time, he disclosed that he had performed marriage with some other female at Hyderabad and had even begotten a son. The petitioner did not pay any heed to the requests made by his wife and the children to reside with them at his native village and while extending threats, had left for Andhra Pradesh. He thereafter got a FIR lodged against the respondent-wife and his children on false and frivolous grounds. The respondent-wife alleged that the petitioner had withdrawn himself from her society since 03.02.2021 without any reasonable and justifiable cause. She was an old aged lady who was having no source of income and was unable to maintain herself whereas the petitioner who was running a security agency, was earning a sum of Rs.2 lacs per month. Prayer had been made by the respondent-wife to direct the petitioner to make payment of a sum of Rs.35,000/- per month as maintenance.

3. The petitioner had filed reply to the petition under Section 125 of Cr.P.C. admitting the factum of his marriage with the respondent-wife and that four children were born out of this wedlock. He submitted that due to outbreak of epidemic of COVID-19, the business of security agency which was being run by him at Hyderabad had gone into losses. The respondent-wife and his children were greedy persons who had kept on extorting money from him from time to time. It was alleged that in the month of January 2021, when he had visited his native village, the respondent-wife and his two sons had quarrelled with him. It was submitted that the respondent-wife was residing with her sons who were having sufficient source of income. She had been residing separately without any

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sufficient cause or reason. The petitioner was still ready to perform his matrimonial obligations. With these broad averments, the dismissal of the petition under Section 125 of Cr.P.C., was prayed for.

4. The parties had adduced evidence in support of their respective assertions. The respondent-wife appeared as PW-1 and examined her son as PW-2 whereas the present petitioner appeared as RW-1.

5. The learned trial Court after appraising the evidence produced on record and appreciating the contentions raised by both the sides had allowed the petition filed by the respondent-wife and had directed the present petitioner to give a sum of Rs.15,000/- per month as maintenance from the date of filing of the petition besides a sum of Rs.11,000/- as litigation expenses.

6. It is submitted by learned counsel for the petitioner that the impugned order dated 21.04.2023 is not sustainable in the eyes of law and is liable to be set aside as the learned Principal Judge, Family Court had passed this order granting maintenance of a sum of Rs.15,000/- to the respondent without giving any plausible reasons for doing so. The findings given by learned Principal Judge were based on conjectures and surmises. The fact that it was the respondent-wife who had willingly withdrawn from the company of the petitioner and had been staying with her sons, was overlooked. The amount of Rs.15,000/- was exorbitant. The petitioner was a simple labourer who was earning a sum of Rs.7,000/- per month only and the learned trial Court committed a mistake in determining that his income was Rs.40,000/- per month. He further argued that the respondent-wife had executed a writing on 27.02.2018 admitting that the petitioner had been providing for a luxurious life for her by working at Hyderabad and that she

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herself did not leave her matrimonial house at the native village of the petitioner because of education of her children. It is submitted that the evidence produced on record by the petitioner had not been properly appreciated. Therefore, it is urged that the impugned order as passed by learned Principal Judge deserves to be reversed and he is not liable to pay any amount of compensation to the respondent-wife. To fortify his argument, he placed reliance upon **Manoj Kumar v. Champa Devi**, 2017 (2) R.C.R. (Criminal) 574; **Rohtash Singh v. Ramendri (Smt.)**, 2000 (2) R.C.R. (Criminal) 286 and **Vanamala v. H.M. Ranganatha Bhatta**, 1995 (3) R.C.R. (Criminal) 210.

7. It is undisputed that the respondent is legally wedded wife of the petitioner and is aged 60 years. It also does not appear to be in dispute that he has been living in Hyderabad (Andhra Pradesh) and the respondent-wife is living along with her sons at the native village of the petitioner. The respondent-wife had claimed maintenance from the petitioner by alleging that he has neglected and refused to maintain her w.e.f. 03.02.2021 and had withdrawn from her company. The petitioner has taken a plea that it is the wife who had deserted him. However, no findings have been recorded by the Family Court that the respondents had deserted the petitioner. The authorities which have been cited by learned counsel for the petitioner have no bearing in the peculiar facts of the present case. Rather it appears that the petitioner-husband has deserted the wife as he himself has placed on record a document (Annexure P-3) before this Court claiming it to be executed by the respondent giving her permission to him to perform second marriage. This document cannot be stated to be having any value in the eyes of law.

8. Section 125 of Cr.P.C. provides a swift and cheap remedy

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against any person who neglects or refuses to maintain his wife or children. The primary object of this provision is to prevent starvation and vagrancy and to compel a man to perform the moral obligation which he owes to the society in respect of his wife or children so that they are not left beggared and destituted on the scrapheap of the society and thereby driven to a life of vagrancy, immorality and crime for their subsistence. The power under this section is to be exercised with discretion in a judicial manner which is consistent with the language of the statute with regard to the other relevant circumstances. In the present case, the petitioner was admittedly running a security agency. Though he claimed that after outbreak of COVID-19, the said business had gone into losses but no document in the form of income tax returns etc. had been produced on record by him to prove so. The plea taken by the petitioner is that since the respondent was staying with her children who had sufficient means for her maintenance, therefore, he was not liable to pay any maintenance. This cannot be stated to be any ground to deny maintenance to wife. It is the duty of the petitioner to maintain his wife in a befitting manner. It is well settled proposition of law that a wife is entitled to maintain a standard of living which is neither luxurious nor penurious and she is also entitled to lead decent life yet at par with the dignity and status of the husband. The plea as taken by the revision petitioner at this stage to the effect that his monthly income has been reduced only to Rs.7000/- and he was working as a labourer cannot be considered as neither any such plea was taken by him in his written statement nor any evidence had been led to this effect. The learned trial Court while assessing the monthly income of the petitioner @Rs.40,000/- per month had given direction to him to pay an amount of Rs.15,000/- per

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month as maintenance. This amount cannot be stated to be excessive or on higher side keeping in view the fact that the respondent-wife is now aged about 60 years and there is nothing on record to show that she is capable of maintaining herself. In such circumstances, in my opinion, no ground has been made out for interfering with the findings as given by learned Family Court and for allowing the instant petition. Accordingly, the same is dismissed.

07.11.2023
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No