

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F) 523/2018

Date of decision: 28.07.2023.

Saroj

.....Petitioner

Vs.

Dharambir Sindhu

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Lekh Raj Nandal, Advocate for the petitioner.

Mr. Randhir Malik, Advocate for the respondent.

Nidhi Gupta, J.

Prayer in this revision petition filed by petitioner-wife is for enhancement of maintenance by way of modification of the order dated 4.8.2018 passed by Principal Judge, Family Court, Rohtak whereby in a petition under Section 125 Cr.PC, the petitioner has been granted maintenance @ Rs.2000/- per month.

Ld. counsel for the petitioner submits that petitioner was married to respondent more than 40 years ago, however, they have been living separately since 10.9.2016 and the children born out of their wedlock are grown up, independent, and living separately. It is submitted that even no petition under Section 13 of the Hindu Marriage Act, 1955 has been filed between the parties. Ld. counsel submits that however, the petitioner has no source of income and is entirely dependent upon the respondent for her sustenance. Learned counsel submits that the admitted income of the respondent-husband by way of pension is Rs.17,000/- per month, however, vide the impugned order petitioner has been granted only Rs.2000/- per month

as maintenance. It is submitted that in actual fact, respondent even has other income by way of rent, agriculture income etc, whereas petitioner has no source of income and is solely dependent upon the respondent.

Per contra ld. counsel for the respondent-husband takes the attention of this Court to the findings recorded in para 8 of the impugned order, which reads as under:-

“8. It may be pointed out here that the relationship between the parties is admitted. The petitioner has claimed maintenance from the respondent on the ground that the respondent is having sufficient means of income, whereas the petitioner is not having source of income. The respondent has specifically alleged that petitioner is follower of Sant Rampal and in the affidavit furnished by the respondent he has specifically mentioned that a plot was purchased by him in the name of petitioner which she sold and donated said money in Ashram of Sant Rampal. The petitioner while appearing as PWI nowhere denied this allegation. The respondent has produced on file copy of the sale deed dated 15.2.2010 executed by one Subhash Chander Nandal through Shri Harish Chander Nandal in favour of petitioner. The said plot has been shown to be sold by the petitioner vide sale deed No.7257 dated 19.9.2011 for a sum of Rs.11.50,000/-. The petitioner has not explained the sale of this plot in her affidavit despite the fact that a specific allegation was raised by the respondent in his reply to this effect. In addition to this, the petitioner has also not explained about the insurance policy of Rs. 70,000/-. This non-explanation on the part of petitioner in this respect leads to the conclusion that the petitioner has tried to conceal this fact from the court. In addition to this, petitioner herself in the petition has mentioned that presently she is residing in the house of respondent on the ground floor. The respondent has also

stated so and has alleged that the petitioner is being maintained by him. Mother of the petitioner has appeared as RW2. She furnished her affidavit Exhibit RW2/A alleging therein that respondent always kept the petitioner properly, but the petitioner keeps on moving application against the respondent. The daughter of the parties has appeared as PW2. She has made a statement that the respondent is not maintaining the petitioner and he gives beatings to her. Both the parties have led oral evidence as per the averments of their petition and reply respectively. The oral evidence led by the petitioner has been rebutted by the respondent, but the documentary evidence in the form of complaints Mark-A and B show that there had been dispute between the parties. In the same way, the sale deeds referred above show the sale of plot by the petitioner for a sum of Rs.11.50,000/-. Non explanation of selling of the said plot on the part of petitioner shows that she had been dealing her affairs on her own and had hefty amount to spend on her after selling the plot in question. Besides, she admittedly resides in the house of respondent which leads to the conclusion that she is being maintained by the respondent. However, considering the fact that the petitioner may incur some amount for her personal necessities, she, therefore, requires some amount per month. Respondent is husband of petitioner and there is a matrimonial dispute between them. Respondent admittedly is drawing pension to the tune of Rs.17,000/- per month as is clear from his reply. Considering all the facts and circumstances of the case, petitioner at this age deserves some maintenance to be given by the respondent as she is not having any other source of income. The above referred plot stood sold in the year 2011, the said amount if not donated to the Dera, might have been spent by now. The respondent has not been able to show any other source of income of petitioner. But, since the petitioner is residing in the house of respondent itself and is being maintained by him, however,

she may be requiring some amount for her personal requirements, the respondent can be directed to make payment of Rs.2,000/- per month as maintenance to the petitioner from the date of passing of this order. Accordingly, the petition stands allowed. Memo of costs be prepared accordingly. File be consigned to the record room after due compliance”.

When confronted with the above said findings of the Family Court, ld. counsel for the petitioner is unable to controvert or dispute the same.

In view of the above, finding no merit in this revision petition the same is hereby **dismissed**.

28.07.2023.
Joshi

(Nidhi Gupta)
Judge