

Sr.No.106

2023:PHHC:144279

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

**CRM-27872-2023 in/and
CRR(F)-978-2023(O&M)
Date of decision:14.11.2023**

Himanshu

.....Petitioner

Versus

Pinki

.....Respondent

CORAM: Hon'ble Ms. Justice Harpreet Kaur Jeewan

Present: Mr. Mukesh Yadav, Advocate
for the petitioner.

Harpreet Kaur Jeewan, J.(Oral)

CRM-27872-2023

1. For the reasons mentioned in the application, delay of 38 days in filing the petition is condoned, subject to all just exceptions.

Civil Misc. application stands allowed.

CRR(F)-978-2023

2. Present revision petition has been preferred impugning the order dated 24.02.2023 passed by the Court of Principal Judge, Family Court, Narnaul whereby the petition under Section 125 Cr.P.C has been allowed by Family Court, Camp Court at Mohindergarh and petitioner-husband has been directed to pay Rs. 10,000/- per month as maintenance to the respondent-wife.

3. Learned counsel for the petitioner contends that the marriage between the parties was solemnized on 17.02.2018 and thereafter, the petitioner has never harassed the respondent. However, the respondent-wife has left the matrimonial home without assigning any reason. The respondent-wife has deserted the petitioner without any reasonable cause.

Even she got aborted her pregnancy without any reasonable cause and when she was confronted with the said fact, she disclosed that she does not want to give birth to a child. It was further contended that the respondent is well versed with stitching work and she is teaching in a private school as well as giving home tuitions to the students, as such her earnings are Rs.10,000/- per month. It was further contended that the respondent-wife has also filed an application under Section 12 of the Protection of Women From Domestic Violence Act, 2005 merely to harass the petitioner-husband and even in the said petition, the petitioner has been directed to pay a sum of Rs.5,000/- per month to the respondent-wife as interim maintenance as per order dated 04.01.2020.(Annexure P-3).

3. During the pendency of the petition under Section 125 Cr.P.C, the respondent was granted interim maintenance @Rs.13,000/- per month and the petitioner had cleared the arrears of the said maintenance.

4. Learned counsel for the petitioner has further submitted that the petitioner is only getting a sum of Rs. 43,683/- per month as salary and has a liability to maintain his other family members, as such, awarding of a sum of Rs.13,000/- per month as interim maintenance is on a higher side. The respondent is well qualified and she is graduate, having done course of ANM and she has even admitted in her cross-examination that earlier she was doing a job at Sarbati Hospital. Since the respondent-wife can maintain herself, as such the impugned order has been wrongly passed. Reference to the experience certificate (Annexure

P-1) was also given while arguing that respondent-wife is having an experience of working in the nursing department.

5. I have considered the aforesaid contentions. The Family Court has observed that the allegations of the respondent-wife that she was being harassed on account of dowry has been corroborated by lodging of an FIR No.24 dated 01.03.2020 registered under Sections 323, 406, 498-A and 506 IPC at Police station Kanina by her. Charges have been framed in the said FIR. Though trial is yet to be concluded. Regarding the income of both the parties, the Family Court has observed that respondent-wife has though admitted in her cross-examination, having been graduate and completed the course of ANM but he has also stated that presently she is not doing any job.

6. I have considered the experience certificate (Annexure P-1) which has been appended with the present petition. The said certificate pertains to a small period w.e.f 01.06.2020 to 02.07.2021 whereby the petitioner was working in the nursing department in a private hospital. She is not having a permanent job, as such, her statement in the cross-examination that presently she is not working cannot be doubted.

7. Family Court has observed the fact that pay slip of the petitioner for the month of May, 2021 shows that basic pay of the petitioner husband was Rs.26,800/-. Though his gross salary was Rs. 40,500/-and his net salary was Rs.37,184/-. The Trial Court has also observed the salary slip for the month of March, 2022 which shows the gross salary of the petitioner was Rs.61,159/-, net salary was Rs.56,313/-. In this salary slip an amount of Rs.15,500- was added as travelling allowance and Rs.3,636/- ration money allowance was also part of the

salary slip. In view of the salary slip, which is a documentary proof, the Family Court has rightly considered the income of the petitioner-husband as Rs.36,156/-.

8. The relationship between the parties as husband and wife is admitted. The allegations of the respondent-wife that the petitioner-husband is treating her with cruelty are not merely the assertion in the petition under Section 125 Cr.P.C but these allegations were *prima facie* corroborated even by the FIR which was got registered at the instance of the respondent-wife. There is no irregularity or perversity in the impugned order whereby the Family Court has awarded the maintenance to the wife which is in conformity with the documentary evidence on record, which has been rightly appreciated by the Family Court.

9. Keeping in view the facts and circumstances of the present case and keeping in view the intent of the provision of Section 125 Cr.P.C. which is to prevent destitution and vagrancy of the respondent-wife, I find no illegality in the impugned order especially when the gross salary of the petitioner-husband is Rs.56,313/- and the Family Court has awarded merely a sum of Rs.10,000/- to be paid to the respondent-wife as maintenance. As such, the present petition stands dismissed.

10. Pending applicant(s), if any, shall also stand disposed of.

14th November, 2023

Shivani Kaushik

**[HARPREET KAUR JEEWAN]
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No