

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112

CRR-1929-2023 (O&M)

Date of Decision: 29.08.2023

Vivek Kaushik

.... Petitioner

Versus

Babita Sharma

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Aditya Jain, Advocate for the petitioner.

NIDHI GUPTA, J.

1. By way of filing the present revision petition, the petitioner/husband assails the order dated 05.07.2023, passed by the learned Additional Sessions Judge, Gurugram, affirming the order dated 07.09.2022 passed by the learned Judicial Magistrate 1st Class, Gurugram, whereby in an application filed by the respondent/wife under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the DV Act'), the learned trial Court has granted Rs.35,000/- per month as interim maintenance to the respondent/wife.

2. Learned counsel for the petitioner submits that the respondent-wife has embroiled the petitioner in multiple litigations. It is stated that besides the present application against petitioner-husband under Section 12 of the DV Act, the respondent-wife has also filed a separate petition under Section 125 Cr.P.C. for maintenance, and has also lodged two false FIRs against the petitioner and his family members. *Ld.*

Counsel states that there are only vague and general allegations made by the respondent/wife in the present complaint against the petitioner and his family members. He further submits that the impugned orders passed by both the Courts below are based on surmises and conjectures. Both the Courts below have miserably failed to delve deeply into the controversy and have not been able to appreciate the facts and evidence on record in its right perspective. Learned counsel states that the Courts below have failed to appreciate that the petitioner has many responsibilities, including his aged parents. It is contended that in such a situation, the liability imposed upon the petitioner is excessive especially in view of the fact that he has certain liabilities towards his parents.

3. No other argument is raised on behalf of the petitioner.
4. I have heard learned counsel for the petitioner.
5. Admittedly, the petitioner was married to respondent on 12.11.2016 and one girl child was born on 11.05.2018 out of the said wedlock, who is currently in the care and custody of the respondent-wife. As, after some time of the marriage, marital relations between the parties have gone into rough weather and both of them have levelled allegations of cruelty against each other. The petitioner has also filed a divorce petition against the respondent-wife on grounds of cruelty. The respondent/wife has filed a complaint under Section 12 of the DV Act, wherein vide impugned order dated 07.09.2022, the learned trial Court has granted Rs.35,000/- per month as interim maintenance to the respondent/wife.
6. For ready reference, the relevant succinct findings of the learned Judicial Magistrate 1st Class, Gurugram in the impugned order

dated 07.09.2022, are reproduced as under:-

“8. As per affidavit filed, respondent No. 1/husband is shown to be working in TCS since 07.02.2022 and is earning Rs.88,046/- per month. Further respondent/husband is also paying an amount of Rs.4,000/- per month for the insurance premium of his minor daughter Divya, which is not disputed by the applicant side. Further, in her filed application under Section 23(2) of DV Act, applicant has claimed interim maintenance of Rs.50,000/-. The fact that applicant wife is living on rent with her minor daughter is not dispute. Further the applicant is unemployed is also not disputed. Though, the respondent side has claimed that applicant is running showroom of her father but no proof in this regard is placed reflecting that applicant is generating any income by running that showroom which is allegedly owned by her father. Further applicant has also claimed that respondent No. 1 is earning rental income of Rs.1 Lacs per month but however, no proof in this regard has either been placed on record. Hence, these facts cannot be taken into consideration at this stage and can be **better appreciated after leading of evidence**. But still in the interest of justice and considering the relationship between the parties and applicant being legally wedded wife of the respondent No. 1/husband and also having a minor daughter, this court is of the considered view that the applicant is certainly entitled for the interim maintenance to the tune of **Rs.35,000/- per month (inclusive of rental amount to be paid for alternative accommodation)** from the respondent/husband Vivek Kaushik for herself and her minor daughter from the date of filing of the application. This is the moral and legal duty of the Respondent husband/as well as father, even otherwise irrespective of the fact whether he is earning or not. Also with the changing times, there is change in living expenditure of the individual. Accordingly, the respondent/husband is hereby directed to given maintenance to the tune of **Rs.35,000/- per month (inclusive of rental amount to be paid for alternative accommodation)** to the applicant from the date of filing of the application.

7. From the above said findings, the admitted facts that emerge are that the petitioner is drawing a salary of about Rs.88,000/- per month. No doubt he is paying Rs.4000/- per month as insurance premium for his daughter. However, admittedly, the respondent-wife is living in rented

accommodation and has no source of income. The aforesaid findings rendered by the learned trial Court have been found to be true by the learned Additional Sessions Judge, Gurugram also in the impugned order dated 05.07.2023. Thus, in this situation, both the Courts below have rightly observed that respondent/wife has to look after herself as well as her minor daughter who is in her growing years. It is the moral and legal duty of the petitioner as husband and father to maintain his legally wedded wife and minor daughter.

8. It is proved on record that the petitioner/husband is admittedly in a financially sound position to maintain his wife and minor child and respondent-wife has no source of livelihood. Learned counsel for the petitioner is unable to dispute or controvert the findings as recorded by both the Courts below. Further, nothing has been produced before the Court to show as to why the abovesaid findings are incorrect or ought to be rejected.

9. Accordingly, in view of the aforesaid facts and circumstances of the case, no ground is made out to disturb the concurrent findings of both the Courts below. Present revision petition being devoid of merits is **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

29.08.2023

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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable

Yes/No