IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

113 **CRR-F-1433-2023(O&M)**

Date of decision: 12.10.2023

Shitij Kumar

...Petitioner(s)

Vs.

Avnesha (minor) through her mother

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Jivesh Malik, Advocate
for the petitioner.

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NIDHI GUPTA, J.

Prayer in the present revision petition is for setting aside judgment dated 25.08.2023 passed by learned Principal Judge, Family Court, Panipat passed in case bearing No.MNT-92-2022 whereby respondent's petition under Section 125 Cr.P.C. has been allowed and the petitioner has been directed to pay monthly maintenance of Rs.32,000/- to the respondent/minor daughter of the petitioner.

2. Learned counsel for the petitioner inter alia submits that the impugned judgment passed by the learned Family Court is on the face of it illegal, unjust and unfair as the mother of respondent is also drawing handsome salary of around Rs.80,000/- per month. It is submitted that in these circumstances, to place the entire financial burden on shoulders of the petitioner to maintain the minor child/respondent herein, is unsustainable; and that the learned Family Court has adopted an archaic approach in holding that it is the prime duty of the father to maintain his children. Learned counsel further submits that before passing the impugned order, it was incumbent upon the learned Family Court to also

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keep in mind the fact that it was the mother of the respondent who had left the company of the petitioner in the year 2020 of her own accord. It is submitted that it is only after the petitioner had filed a petition under Section 13 of Hindu Marriage Act, 1955 in October, 2021 seeking divorce from mother of the respondent, that she filed the present application under Section 125 Cr.P.C. It is submitted that it is therefore clear that the present application under Section 125 Cr.P.C. was an afterthought on part of mother of the respondent. Learned counsel states that the learned Family Court has failed to properly appreciate the evidence brought on record by the parties.

3. It is further submitted that the petitioner has an additional responsibility as he has old aged parents whose medical expenses are substantial, however, this fact has been ignored by the learned Family Court. It is contended that the petitioner has to spend an amount of Rs.40,000/- per month for medical treatment of his parents.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel for the petitioner.

6. Perusal of record of the case shows that the petitioner was married to mother of the respondent on 09.03.2008. Respondent was born on 23.01.2010. It is the pleaded case of the respondent that in the year 2020, her father had left her company without any reason. He was not providing financial or any other assistance to her. The respondent was studying in M.A.S.D. Public School. The school charged Rs.4,295/- per month as fees etc. and transport charges were about Rs.2,500/- per month.

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The respondent was also getting tuitions of various subjects for which the tutor charged Rs.2,000/- per month per subject. The respondent also required coaching of English-Speaking course from a reputed institute in Panipat and they would charge Rs.50,000/-. Besides this, the mother of the respondent was spending an amount of Rs.30,000/- per month on her food, medicines, clothes, etc. The mother of the respondent was not able to bear said expenses single-handedly. The petitioner was not having any other child or family member who was dependent upon him. Therefore, the respondent was entitled to get maintenance from the petitioner being his legal daughter.

7. Learned counsel for the petitioner has been unable to deny the above facts. His sole contention has been that the entire financial burden cannot be placed upon the petitioner alone. However, the admitted facts as borne out from the record are that the petitioner is a Government employee. On a direct Court query, the petitioner has admitted that he is drawing a salary of Rs.1,33,000/- per month; whereas as per the petitioner's own saying the mother of the respondent is drawing a salary of Rs.80,000/- per month.

8. Even otherwise, perusal of impugned order reveals that the learned Family Court has examined in great detail the evidence placed before it, inasmuch as the learned Family Court has recorded that the school fees of the respondent is Rs.4,295/- per month; at the time of admission of the respondent, the school had charged Rs.38,600/- as registration fee, admission fee, etc.; transport charges about Rs.2,500/- per

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month; tuition of various subjects is Rs.2,000/- per month. In similar manner, numerous other expenses such as gym charges, English Speaking coaching charges, amounts spent on food, medicine, clothing, school stationery, etc. have been considered by the learned Family Court, before passing the impugned order.

9. Moreover, learned counsel for the petitioner has also admitted that the respondent-minor daughter is in the care and custody of her mother. Thus, the day-to-day requirements of the respondent are met solely by her mother.

10. It has to be borne in mind that a child does not require only financial assistance from her parents but mental, physical, emotional and overall welfare of the child is also to be kept in mind. In the present case, admittedly, the mother of the respondent is taking care of all such requirements of the respondent-child as she is in the care and custody of her mother. In these circumstances, if the financial aspect of the care of the respondent child is placed upon the petitioner, I find no error whatsoever in the same.

11. As regards the contention of the petitioner that he has the additional responsibility of his aged parents, it has come on record that the petitioner is living separately from his parents in Gurugram whereas his parents reside in Noida. The petitioner has also admitted before the learned Family Court that his parents are not dependent upon him financially or physically as they are both pension-holders. Accordingly, the

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plea taken by the petitioner that he has to bear medical expenses of his parents, does not hold much relevance.

12. Accordingly, in view of above discussion, I find no ground is made out to interfere in the impugned order. Present petition stands **dismissed.**

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

12.10.2023 **(Nidhi Gupta)**
Sunena **Judge**

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

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