

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**116****CRR-F-1442-2023(O&M)****Date of decision: 05.10.2023****Rajbir Kaur & Another****...Petitioner(s)****Vs.****Hira Singh****...Respondent(s)****CORAM:****HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: -

Mr. Sarbjit Singh, Advocate
for the petitioner.

NIDHI GUPTA, J.

Prayer in the present petition filed on behalf of wife and minor daughter of respondent herein, is for setting aside order dated 03.08.2023 passed by learned Additional Principal Judge, Family Court, Amritsar, whereby Rs.2,500/- per month has been awarded to petitioner No.2 as maintenance.

2. Learned counsel for the petitioner inter alia submits that petitioner No.1 was married to the respondent on 19.03.2003. Out of their wedlock, two daughters were born. Petitioner No.2 is in the care and custody of petitioner No.1, and second daughter namely Sania Randhawa, who was born on 22.02.2005, is in the care and custody of the respondent. Learned counsel states that respondent turned the petitioners out from the matrimonial home on 25.04.2017/28.04.2017, whereafter, the petitioners have been living with parents of petitioner No.1 and are fully dependent upon her parents. It is submitted that the petitioners have no source of income nor do they own any movable or immovable property; whereas the respondent is a man of means having 6-7 acres of land owned by his

stepmother. It is contended that the respondent is getting lease money of Rs.50,000/- per acre and he is also doing business of property dealing and as such, the respondent is earning more than Rs.1 lakh per month from all sources. It is submitted that in these circumstances, the Id. Family Court has granted very meagre maintenance of only Rs.2,500/- per month to petitioner No.2, and nothing has been granted to the petitioner No.1. It is submitted that in view of the above facts, petitioner No.1 also be awarded an amount of Rs.35,000/- as final maintenance.

3. I have heard learned counsel for the petitioner, and perused the case file in great detail. The learned Family Court, after considering all the relevant facts and circumstances of the matter, as also all the pleadings and evidence on record has returned the following findings: –

“7. While stepping into witness box as AW1, the applicant has admitted in her cross examination that on 28.04.2017, she went to take medicine herself. Whereas, in her petition, she has specifically mentioned that on 28.04.2017, she was turned out from the matrimonial home by the respondent. Whereas, the respondent has taken the plea that she herself has left the matrimonial home. So, falsehood of her case is proved from her own statement. She has falsely stated that on 28.04.2017, she was expelled by the respondent from the matrimonial home. She has also pleaded that the respondent tried to kill her by putting her on fire, but she was saved by the mercy of the God. But except the oral statement of the applicant, there is no evidence in this regard on the record. Rather, in her cross examination, she has admitted that she has no medical proof regarding the alleged incident of setting her ablaze. She has admitted that she did not file any

complaint regarding above said incident to the police. She has not filed any complaint regarding the demand of dowry till date. However, she has stated that she filed a complaint regarding the alleged beating. Copy of the same is also placed on record. She has admitted that no FIR was lodged on that application against the respondent. Meaning thereby, her version was not accepted even by the police.

8.It is further clear from the cross examination that her entire case is bundle of lies. The respondent has alleged that the applicant has falsely stated that she has no source of income. Whereas, she has been working in Gumber Hospital and was getting Rs.20,000/- per month. She has denied in her cross examination that she was working in Gumber Hospital, Amritsar. However, she has stated that she has gone to that hospital only for few days. However, her mother, who has been examined as AW2, she has admitted this fact that her daughter i.e. the applicant was working as a helper in Gumber Hospital at Putlighar, Amritsar, one year prior. So, in this regard, the applicant has given a false statement that she has never worked in that hospital. Further she has alleged that the respondent is a man of means. He is having 6/7 acres of land and he is also doing a business of property dealer. But in her cross examination again her stand has fallen to the ground because she has stated that she is not having any proof to show that the respondent is having landed property and he is doing the business of property dealing. From the cross examination of the mother of the applicant, it is further made out that the applicant did ETT course, after marriage. But she has voluntarily stated that she incurred the expenses on this course. But when she was asked to bring any proof, then she stated that she is not having any proof regarding the expenses incurred by her on this course. She further admitted that her

daughter has passed +2 examination, after her marriage. So, it is clear that after the marriage, the applicant was doing her further studies. So, in these circumstances, it cannot be believed that she been subjected to any cruelty or maltreatment after the marriage. Rather, it appears that her husband i.e. the respondent has helped her in doing her studies after marriage. AW2 has also admitted in her cross examination that on 25.04.2017, she has brought her daughter i.e. applicant from the house of her sister-in-law. So, from this statement it is again falsified that she was turned out from the matrimonial home on 25.04.2017. She has also admitted that the respondent came to her on 12.06.2017 for taking her daughter with him. She has further admitted that on that date, he was handed over to police by them. It becomes evident that the respondent was doing efforts to bring the applicant to the matrimonial home, but it is the applicant and her parents, who were not allowing her to settle in the matrimonial home.

9. So, from the cross examination of the witnesses, it became clear that the applicant has raised false pleas in her application that she has been maltreated and beaten up by the respondent and his family members and she has been thrown out from the matrimonial home. Rather, from the evidence, it proved that she herself has left the matrimonial home and her mother is interfering in her matrimonial home. Section 125 Cr.P.C. has been enacted to prevent a wife from destitution and vagrancy in case she has been neglected and refused to be maintained by her husband. In the instant case, the applicant has blatantly failed to establish that she has been neglected by her husband i.e. respondent or the respondent has refused to maintain her. Even during the proceedings of the case, the court has tried to bring reconciliation between them, but she always refused to settle in the matrimonial home. In her cross

examination also she has admitted that she do not want to join the company of her husband. Taking into consideration all these facts and circumstances, this court is of the considered opinion that the applicant no.1 is not entitled to any maintenance under Section 125 Cr.P.C. from the respondent.

10.Admittedly, the applicant no.2 Ishmeen Kaur Randhawa is born out of legal wedlock of the parties. So, the respondent, being father of the applicant no.2, is under legal as well as moral duty to provide maintenance to her minor daughter.

11.As far as the paying capacity of the respondent is concerned, the applicant no.1 has alleged that he is having landed property and is doing the business of property dealing. But there is no proof to this fact, as it is already discussed forgoing paras. However, being an able bodied person, he is able to earn at least Rs.15000/16000/- per month by doing labourer. So, in these circumstances, he is directed to pay maintenance to the applicant no.2 to the tune of Rs.2500/- per month. This case is pending for almost six years. At the time of passing interim order by the learned Predecessor of this court, Rs.2000/-per month was granted as maintenance to applicant no.2. So, for the period of pendency of this case, the amount of maintenance is kept intact for applicant no.2 and respondent is directed to pay Rs.2000/- per month to applicant no.2 from the date of filing of application till today and from onwards he shall payRs.2500/- per month to the applicant no.2. Under the interim order, the respondent has paid the same amount to the applicant no.1 also. But this court has already come to the conclusion that she is not entitled to claim any maintenance from the respondent. So, any amount received by her under the interim order, which now has merged into the final order, is liable to be adjusted against the amount of maintenance,

which is payable to applicant no.2. So, the present application is hereby partly allowed. File be consigned to the Judicial Record Room, Amritsar after due compliance.

4. A perusal of the above said findings returned by the learned Family Court shows that the petitioner No.1 has continually attempted to mislead the learned Court below. Not only that, she has blatantly mis-stated facts. In fact, the learned family court has been constrained to observe that the entire case put forward by the petitioner No.1 is '*a bundle of lies*'. Besides that, there are glaring discrepancies in the story put forth by the petitioner. Moreover, nothing has been placed before this Court to substantiate the assertion of the petitioner that the respondent is a man of means.

5. Even further, learned Family Court has given a categorical finding that "*Rather, from the evidence, it proved that she herself has left the matrimonial home...*". Thus, it is clear that it was the petitioner No.1 who had left the matrimonial home. In such circumstances, Section 125(4) comes into play, which stipulates that: –

"No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refused to live with her husband, or if they are living separately by mutual consent."

6. Perusal of the above provision leaves no manner of doubt as it has been clearly stipulated therein, that if the wife leaves the matrimonial home/refuses to live with the husband without any sufficient reason, then she will not be entitled to receive any maintenance. Learned

counsel for the petitioners has been unable to controvert, dispute or disprove the above said findings in any manner. Accordingly, I find no infirmity in the impugned order.

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

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

05.10.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No