

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**114****CRR-2344-2023(O&M)****Date of decision: 11.10.2023****Gian Chand****...Petitioner(s)****Vs.****Saroj Bala & Another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: - Mr. Munish Mittal, Advocate
for the petitioner.

NIDHI GUPTA, J.

Prayer in the present petition filed by the petitioner/husband is to set aside order dated 07.08.2023 passed by learned Additional Sessions Judge, Faridabad in CRA-240-2022 whereby the learned Additional Sessions Judge, Faridabad has partly allowed the appeal filed by the wife/respondent No.1 herein and while modifying the order dated 03.08.2022 passed by the learned Judicial Magistrate, 1st Class, Faridabad and directed the petitioner to pay Rs.15,000/- per month to respondent No.1 as interim maintenance from the date of filing the application.

2. Learned counsel for the petitioner inter alia submits that in an application filed by respondent No.1 under Section 23(1) and (2) of Protection of Women from Domestic Violence Act, 2005 passed in COMA-793-2019, the learned Judicial Magistrate, 1st Class, Faridabad vide order dated 03.08.2022, had directed the petitioner to pay Rs.5,000/- per month to respondent No.1. Learned counsel submits that vide impugned order dated 07.08.2023, learned Additional Sessions Judge, Faridabad has

directed the petitioner to pay Rs.15,000/- per month as interim maintenance to respondent No.1. Learned counsel submits that the learned lower Appellate Court has failed to appreciate the fact that the petitioner is a retired person and is getting pension of only Rs.33,000/- per month. It is further stated that the petitioner is repeatedly suffering from ill health due to Covid-19 infection in the year 2021, and as such, his medical expenses are substantial. It is submitted that the petitioner is still ready and willing to reside with respondent No.1 however, she is not willing to live with the petitioner. It is also submitted that respondent No.1 is residing in her own house which was built by the petitioner from his income and it is the petitioner who has been thrown out of the matrimonial home. It is submitted that the petitioner also has responsibility of his son who is residing with him whereas respondent No.1 is residing with her two daughters who are working and therefore, she has no responsibilities and hence, impugned order is prima facie unjust and unfair.

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

4. I have heard learned counsel for the petitioner.

5. Perusal of record of the case reveals that the petitioner was married to respondent No.1 on 10.12.1990. Out of this wedlock, three children i.e. two daughters and one son was born. Admittedly, the daughters are residing with respondent No.1 and the son is residing with the petitioner. Perusal of record further reveals that in the year 2018, respondent No.1 had filed application under Section 23(1) and (2) of Protection of Women from Domestic Violence Act, 2005. In the said

application, vide order dated 03.08.2022, the learned Judicial Magistrate, 1st Class, Faridabad had directed the petitioner to pay Rs.5,000/- per month to respondent No.1. Said order was challenged by respondent No.1 before the learned Additional Sessions Judge, Faridabad by way of appeal under Section 29 of Protection of Women from Domestic Violence Act, 2005, wherein vide impugned order dated 07.08.2023, the petitioner has been directed to pay Rs.15,000/- per month to respondent No.1. It is the contention of learned counsel for the petitioner that respondent No.1 is living with her two daughters who are working whereas the petitioner has added responsibility of his son. On a direct Court query, learned counsel for the petitioner has admitted that the son of the petitioner is 28 years old and is also in job. Furthermore, it has also been admitted by learned counsel for the petitioner that the petitioner is retired from the post of Inspector, Housing Co-operative Society, Haryana and is drawing a pension of Rs.33,000/- per month, whereas respondent No.1 has no source of income.

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

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

11.10.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No