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

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CRR(F)-1527-2023 (O&M)
Date of decision: 20.10.2023

AVTAR SINGH

.... Petitioner

Versus

CHANDANI @ SUMAN AND OTHERS

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Lalit Singla, Advocate for the petitioner.

MANISHA BATRA, J. (Oral)

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Prayer in the application is for condonation of delay of 19 days in filing the present petition. Heard. In view of the reasons mentioned in the application, same is allowed.

2. Delay of 19 days in filing the present petition is condoned.

Main case

3. The instant petition has been filed under Section 397 read with Section 401 of Code of Criminal Procedure (for short 'Cr.P.C.') challenging

the order dated 03.07.2023 passed by learned Family Court, Hisar in MNT case No.26-III titled as ***Chandni @ Suman and others Vs. Avtar Singh*** in a petition filed under Section 125 of Cr.P.C. whereby the wife was allowed to be granted maintenance to the tune of Rs.4,000/- per month whereas her minor children were awarded maintenance to the tune of Rs.1,000/- each.

4. For the sake of convenience, the parties shall be referred to hereinafter as per their original nomenclature as given in the petition filed before learned family Court.

5. Shorn of unnecessary details, the relevant facts are that petitioner No.1 Chandni @ Suman was married with respondent Avtar Singh on 05.03.2011. The minor petitioners No. 2 and 3 were born out of wedlock. Petitioner No.1 had been maltreated, harassed and humiliated by the respondent and had been turned out of her matrimonial house on account of demand of dowry along with her minor children. The petitioners prayed for directing the respondent to pay allowance for their maintenance by filing the aforementioned petition and by pleading that respondent was a Driver of a harvesting machine and he also had immovable properties in the village and his monthly income from all the sources was Rs.80,000/-. The respondent resisted the claim of the petitioners by alleging that the petitioner No.1 had left the matrimonial house at her own in his absence and he was ready to keep and maintain the petitioners. It was also denied that he was Driver by profession and it was asserted that he was only a labourer. The respondent further claimed that petitioner No.1 was doing stitching work and was capable of maintaining herself as well as her minor children.

6. Both the parties had adduced evidence. After appraising the evidence so produced and hearing the contentions raised by both the sides, the learned Family Court had partly allowed the petition thereby directing the respondent to pay maintenance to the tune of Rs.4,000/- to the petitioner No.1 and Rs.1,000/- each to petitioners No.2 and 3 from the date of filing of the petition besides litigation expenses to the tune of Rs.5500/-.

7. It is argued by learned counsel for the revision-petitioner/respondent that the impugned order is not sustainable in the eyes of law as the learned Family Court did not appreciate the evidence produced on record in a proper perspective and erred in awarding an amount of Rs.4,000/- per month to petitioner No.1 and Rs.1,000/- each to the minor petitioners, which was exorbitant keeping in view the financial status of the respondent, who was only a labourer and whose monthly income was not more than Rs.9000-10000/- only. He further argued that the income of petitioner No.1 was at par with the income of the respondent and therefore, he could not be compelled to maintain her. With these broad submissions, the respondent has prayed for allowing the revision petition.

8. I have heard learned counsel for the revision-petitioner/respondent and have gone through the record carefully.

9. Petitioner No.1 is legally wedded wife of the respondent and the minor petitioners No. 2 and 3 are her children. As admitted by the respondent, they are residing separately from him since the year 2017. The respondent has not produced any material on record to show that he had made any effort whatsoever to rehabilitate the petitioners with him. The

allegation levelled by him that petitioner No.1 had left his company at her own were not accepted by learned family court and on a perusal of the findings as given by learned family Court, I am of the opinion that there is nothing on record to show that petitioner No.1 had deserted him. The well settled proposition of law is that the wife and children are entitled to maintain a standard of living which is neither luxurious nor penurious and are also entitled to lead decent life at par with dignity and status of the husband. It is the commitment of a husband and father to meet the needs and requirements of food, shelter and medical treatment etc. of his wife and children. The object and scope of Section 125 of Cr.P.C. is not to punish a person for neglect to maintain those whom he is bound to maintain. This section provides a speedy remedy by way of summary procedure to enforce liability in order to avoid vagrancy and to give protection to wife and children and to prevent destitution by compelling those who are unable to support themselves. Merely by alleging that petitioner No.1 had left at her own, respondent could not be absolved from liability to pay the maintenance to her.

10. Learned family Court after taking all these facts and circumstances into consideration and after duly appraising the evidence produced on record, had directed the respondent to pay aforementioned amount as maintenance to the petitioners. This amount cannot be stated to be exorbitant at all. Rather the same is minimum one to meet the day to day requirements of the revision-petitioner's wife and children. Accordingly, I find no reason to interfere with the well reasoned findings as given by

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learned Family Court and affirm the same. The revision petition is accordingly, dismissed in limine.

20.10.2023
pooja saini

(MANISHA BATRA)
JUDGE

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