

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRR (F) 35 of 2020
Date of decision: 01.08.2023.

Sushila

.....Petitioner

Vs.

Mahender

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anoop Kumar Yadva, Advocate for the petitioner.

None for respondent despite service.

Nidhi Gupta, J.

Present revision petition has been filed by the petitioner-wife challenging the order dated 6.12.2017 whereby her application under Section 125 Cr.PC for grant of maintenance has been dismissed by the Id. Family Court, Gurugram.

Ld. counsel for the petitioner submits that petitioner got married to the respondent on 12.11.2005 and the parties have been living separately since 2014. No child was born out of their wedlock. Thereafter, petitioner-wife filed present application under Section 125 Cr.PC in the year 2016.

Ld. Counsel for the petitioner submits that the petitioner has no source of income, and she is totally dependent upon her father who is blind; whereas the respondent is an RMP Doctor and is earning Rs.25,000/- per month. It is further submitted that the Id. Family Court has failed to take into

consideration the evidence led by the petitioner and has wrongly dismissed her application under Section 125 Cr.PC.

I have heard learned counsel for the petitioner.

Vide order dated 14.1.2020 Notice of Motion was issued in the matter. Office Report shows that Service is complete. Despite that none has put in appearance on behalf of the respondent. Accordingly, matter is being disposed of in his absence.

Perusal of the impugned order shows that though it has been alleged by the petitioner that she was turned out of her matrimonial home in 2014, however, no reasons have been given by her as to why the application under Section 125 Cr.PC was filed by her two years thereafter, only in the year 2016. It has further been recorded in the impugned order that the respondent was ready and willing to live together with the petitioner, however, during mediation petitioner demanded Rs.5 lacs for separating from the respondent, which the respondent was unable to pay as he was stated to be working only as a Helper to Beldar. It had further been argued by the ld. counsel for the respondent before the Family Court that respondent is incapable of even reading and writing in English, and he appended his signatures before the Family Court in Hindi, and that the respondent was 8th class fail, yet, the petitioner was claiming that he is an RMP Doctor.

Upon consideration of the all the material placed before it, the ld. Family Court accordingly, returned the following findings:-

“In the present petition also, apart from herself and her mother, no other witness has been examined. It has not been stated by the petitioner or her mother PW2 Maya Devi that

petitioner used to tell or narrate her problems to her mother, without which the statement of PW2 loses all relevance. Otherwise also it is a verbatim reproduction of the statement given by PW1. No witness has been examined from the village to prove that the respondent was a RMP doctor or was earning Rs.25,000/- per month. No bank account statement or any other kind of evidence has been led to prove the income of the respondent or the standard of living maintained by the respondent to come at some conclusion. However, even coming to the income of the respondent, it will be sufficient to observe that in her petition as well as in her statement, she took a stand that respondent was a RMP doctor and was having an income of Rs. 25,000/- per month, whereas at the time of arguments, it was conceded that he was not an RMP doctor but may be a compounder or helper who was having income of 10,000/- to 12,000/- per month. Such kind of arguments which is against the pleadings and evidence of the parties only goes on to show that petitioner has not come to the court with clean hands. The parties cannot mold the arguments and evidence to suit their convenience.”.

It is on the basis of the above reasoning and findings that the learned Family Court dismissed the petitioner's application under section 125 CRPC. Ld. counsel for the petitioner is unable to dispute the above said findings of the Family Court. Ld. counsel for the petitioner has further admitted that no complaint under Section 498-A IPC was filed by the petitioner against the respondent during the period from 2005 till 2014 and

that no allegation of cruelty has been levelled by her against the respondent during this period.

In view of the above, finding no merit in this revision petition the same is hereby dismissed.

01.08.2023.
Joshi

(Nidhi Gupta)
Judge