

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRR (F) No.1703 of 2023 (O&M)

Date of decision: 04.12.2023

Beant Singh

... Petitioner

Vs.

Ishbinder Kaur

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Arihant Goyal, Advocate,
for the petitioner.

MANISHA BATRA, J. (Oral)

CRM-50921 of 2023

This is an application for condonation of delay of 180 days in filing the present petition.

For the reasons mentioned in the application, the same is allowed and the delay of 180 days in filing the present petition is condoned.

Main Case

1. The present petition has been filed by the petitioner challenging the order dated 28.02.2023 passed by the Court of learned Principal Judge, Family Court, Mansa in Maintenance Petition No.383 of 2021 whereby interim maintenance to the tune of Rs.,4500/- per month had been directed to be paid by the present petitioner to the present

respondent.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned petition has been filed by the respondent-wife on the averments that she got married with the present petitioner on 08.05.1999. She had been turned out from her matrimonial house by the petitioner without any reasonable cause. The petitioner had neglected and refused to maintain her. She was unable to maintain herself and was not having any moveable or immoveable properties in her name whereas the petitioner was earning monthly income of Rs.70,000/- by doing dairy business and by cultivating agricultural land taken by him on contract basis. As such, she has made prayer for directing him to pay a sum of Rs.20,000/- per month as maintenance. Vide order dated 28.02.2023, the learned Principal Judge, Family Court has directed the present petitioner to pay a sum of Rs.4500/- per month to her by way of interim maintenance.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law as while passing the same, the learned Principal Judge ignored the fact that the respondent-wife is residing separately from him since the year 2015 without any plausible reason. Two sons of the petitioner are residing with him. He is living in a joint family and apart from taking care of his children, he is also maintaining his father and two younger brothers one of whom is specially abled and is fully dependent upon him. His monthly income is only Rs.17,000/-. The amount of interim maintenance as directed to be

paid to the respondent is excessive and is not commensurate with his income. He has also been directed to pay a sum of Rs.2500/- per month to the respondent by way of maintenance in a petition filed by her under the provisions of the Protection of Women from Domestic Violence Act, 2005 (For short, "Act, 2005") and cannot be vexed twice. He has also placed on record a copy of order dated 30.01.2023 which shows that direction had been given to him in the proceedings under the Act, 2005 to pay interim maintenance to the tune of Rs.2500/- per month.

4. I have heard learned counsel for the petitioner and have perused the material placed on record.

5. It is revealed from a perusal of the impugned order that it is own admission of the petitioner that his monthly income is Rs.17,000/-. It has also been admitted by him that he owns and possesses three acres of land. Though it has been alleged by him that the respondent is capable of maintaining herself but nothing has been brought on record to show this fact. The evidence is yet to be adduced by the parties before the Family Court. The amount of maintenance which has been directed to be paid by the petitioner to his wife cannot be stated to be excessive, keeping in view the present rising prices index. It is the moral as well as legal obligation of the petitioner to maintain his wife. It is well settled that a wife is entitled to maintain a standard of living which is neither luxurious nor penurious and is also entitled to lead a decent life yet at par with the dignity and status of the husband and keeping in view the commitment of the petitioner to meet the needs and requirements of food, shelter and

medical treatment etc. of his wife.

6. Keeping in view the facts and circumstances of the case, I am of the considered opinion that the learned Family Court had rightly directed the petitioner to pay an amount of Rs.4500/- per month to the respondent wife and this amount cannot be stated to be excessive or inconsistent with the status of the petitioner and is bare minimum and commensurate with her day to day requirement of food, lodging, medical expenses etc. It is well settled that order granting maintenance to helpless wife should not be lightly interfered with unless any illegality or manifest injustice is made out. No such illegality is, however, made out in this case in the impugned order. Therefore, I find no reason to interfere with the same. Accordingly, affirming the findings as given by learned Family Court, deserve to be affirmed.

7. So far as the plea that the respondent is already getting Rs.2500/- per month in the proceedings initiated under the Act, 2005 is concerned, undoubtedly the respondent-wife can simultaneously claim maintenance under different enactments but the petitioner-husband cannot be made liable to pay maintenance under each of the said proceedings. It is not in dispute that the amount of maintenance as awarded under Section 125 of Cr.P.C. to the respondent is higher than the amount of maintenance awarded under the Act, 2005. It is only the higher amount which is payable by the petitioner. Therefore, the right of the respondent to claim maintenance under Section 125 of Cr.P.C. would not be foreclosed due to grant of maintenance to them in the proceedings

under the Act, 2005. However, it is clarified that the learned Principal Judge, Family Court shall take into account the amount of maintenance paid by the petitioner under the Act, 2005 and ensure that the same stands adjusted against the amount payable under Section 125 of Cr.P.C. by setting off the same. Petition stands disposed of accordingly.

04.12.2023	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No