

CRR (F) No.1670 of 2023 (O&M)

Neutral Citation No.2023:PHHC:153119

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

108

**CRR (F) No.1670 of 2023 (O&M)
Date of Decision: 30.11.2023**

Virender Singh

... Petitioner

Versus

Anju and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sunil Sihag, Advocate,
for the applicant-petitioner.

MANISHA BATRA, J.

CRM-49926-23

This is an application for condonation of delay of 31 days in filing the present Criminal Revision Petition.

For the reasons mentioned in the application, the same is allowed and the delay of 31 days in filing the present Criminal Revision Petition is condoned.

CRR(F) No.1670 of 2023

1. The instant petition has been filed by the petitioner impugning the order dated 25.07.2023 as passed by the Court of learned Principal Judge, Family Court, Sirsa, Camp at Ellenabad in Maintenance Petition No.MNT-07-2020 titled as *Anju and others v. Virender Singh Bhadu*, whereby interim maintenance to the tune of Rs.7000/- per month was directed to be paid to respondent No.1 and Rs.5000/- per month to respondent No.2.

Neutral Citation No.2023:PHHC:153119

2. Brief facts of the case relevant for the purpose of disposal of this revision petition are that the respondent No.1-Anju who is wife of the present petitioner has filed the aforementioned petition for herself as well as on behalf of her minor daughter i.e. respondent No.2 on the grounds that she was married with the petitioner on 18.02.2003 as per Hindu Rites and Ceremonies. The behaviour of the petitioner and his family members was not proper with her since the very inception of their nuptial life and they started taunting her on account of bringing insufficient dowry. They raised demand of big car and Rs.5 lacs in cash. Due to non-fulfillment of these demands, the respondent No.1 was subjected to cruelty. Ultimately, she along with her two children was thrown out of her matrimonial house. She prayed for directing the petitioner to grant maintenance to them on the ground that he was an Advocate by profession. He owned six acres of agricultural land as well as a private school. His monthly income from all sources was about Rs.1.5 lacs per month. The learned Family Court after considering the reply of the petitioner and the contentions raised by both the parties, partly allowed the application for grant of interim maintenance as filed by the respondents and directed the petitioner to pay maintenance to the respondents No.1 and 2 as discussed above. The elder son of the petitioner who had attained majority was not allowed grant of maintenance. Feeling aggrieved from the said order, the instant petition has been filed.

3. Learned counsel for the petitioner has vehemently argued that the impugned order is not sustainable in the eyes of law and the same is based on conjectures and surmises. The learned Family Court did not apply its judicious mind and ignored the fact that the respondent No.1 was of quarrelsome nature. She had been residing at a house got constructed by the

Neutral Citation No.2023:PHHC:153119

petitioner. In pursuance of a compromise arrived at between himself and the respondent No.1, he had given approximately 80% share of his properties to her and their children which included immoveable properties. She was already getting maintenance to the tune of Rs.7000/- per month for herself and her children in a case which had been filed by her under the provisions of the Protection of Women from Domestic Violence Act, 2005 (For short, “Act, 2005”) at Tibbi, District Hanumangarh, Rajasthan and could not claim maintenance twice. She had voluntarily withdrawn from the company of the petitioner. She had filed frivolous complaints against the petitioner. The practice of the petitioner as an advocate had been spoiled due to his being involved in litigation by the respondent. He had suffered heavy losses in his income. The building of the school which was owned by him was also in very bad condition and was not fetching any income. The amount of maintenance as awarded by the learned Family Court was excessive and the petitioner had not been able to make payment of the same especially in the circumstance when he had already been making payment of a sum of Rs.7000/- per month to the respondents in the proceedings initiated under the provisions of Act, 2005. Therefore, he has argued that the impugned order is liable to be reversed.

4. I have heard learned counsel for the petitioner at considerable length and have perused the record carefully.

5. Vide the impugned order dated 25.07.2023, the learned Family Court had directed the present petitioner to pay a sum of Rs.7000/- per month to respondent No.1 who is his legally wedded wife and a sum of Rs.5000/- to the respondent No.2 who is his minor daughter. No maintenance was directed to be paid to the elder son of the petitioner as he

Neutral Citation No.2023:PHHC:153119

has attained majority. The petitioner has admitted that he owns agricultural land and building of school. He is a lawyer by profession. It is submitted by him that he has already been making payment of maintenance to the respondents in the proceedings initiated under the Act, 2005 by them which are pending at Tibbi, District Hanumangarh, Rajasthan. Though the petitioner has not placed on record, copy of the order passed in any such proceedings but copies of statements as recorded by the respondent No.1 in the proceedings under the Act, 2005 have been placed on record which confirm this fact. The amount of maintenance as has been directed to be paid by him to the respondents cannot be stated to be exorbitant or 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 and child. 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 as well as his child.

6. Keeping in view the facts and circumstances of the case, I am of the considered opinion that the learned trial Court had rightly directed the petitioner to pay an amount of Rs.7000/- per month to the respondent wife and Rs.5000/- per month to his daughter who is school going and this amount cannot be stated to be excessive or inconsistent with the status of the petitioner and is bare minimum and commensurate with the day to day requirement of studies and medical expenses etc. of the minor respondent also. It is well settled that order granting maintenance to helpless wife and child should not be lightly interfered with unless any illegality or manifest

Neutral Citation No.2023:PHHC:153119

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 trial Court, the revision petition is dismissed.

7. So far as the plea that the respondents are already getting Rs.7,000/- per month in the proceedings initiated under the Act, 2005 is concerned, it is clarified that though 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 respondents 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 respondents 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, the learned Principal Judge, Family Court shall take into account the amount of maintenance paid by the petitioner under the Act, 2005 and getting the same adjusted against the amount payable under Section 125 of Cr.P.C. by setting off the same.

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

30.11.2023
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No