

Neutral Citation No. 2024:PHHC:073234

2024:PHHC:073234



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRR(F) No. 41 of 2024 (O&M)
Date of decision : 22.05.2024

Kanwaljeet Singh **...Petitioner**

Versus

Paramjit Kaur and others **...Respondents**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. C. L. Verma, Advocate and
Mr. Aditya Dassaur, Advocate for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

Ms. Manju Goyal, Advocate &
Mr. T. P. S. Bawa, Advocate
for respondent Nos. 2 and 3.

MANISHA BATRA, J.(Oral)

1. The petitioner, by way of filing the present revision petition, is challenging the orders dated 15.02.2018 and 14.02.2020, as passed by the Judicial Magistrate First Class, Bathinda and learned Additional Principal Judge, Family Court, Bathinda in maintenance petition No. MNT/82/2019, ***Paramjit Kaur and others vs. Kanwaljit Singh***, whereby the respondent was proceeded against ex-parte and a final order for maintenance was passed, respectively.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned petition had been filed by the respondent No. 1, who is wife of the present petitioner for herself as well as

Neutral Citation No. 2024:PHHC:073234

on behalf of her daughters i.e. petitioner Nos. 2 and 3, under Section 125 of Cr.P.C. for grant of maintenance amount on the averments that respondent No. 1 was married with the petitioner on 24.11.1996 as Sikh rites and rituals. The respondent Nos. 2 and 3 were born out of the wedlock. Since the very inception of their marital life, the petitioner was insulting and humiliating the respondent No.1 on account of bringing insufficient dowry and by raising demand for more dowry. Questions were raised about the integrity of her character and she was harassed on trivial issues. She was working in Punjab National Bank. She had taken leave some time after her marriage and had started living at her matrimonial house as she had become pregnant but the behavior of the petitioner and his mother remained the same towards her. She had joined her duties on 01.11.1997 and had started living at her parental house for about 02 years along with her child. However, the petitioner or his family members did not come to see her first daughter or herself or to take them back to her matrimonial house. The respondent No. 1 got herself temporarily transferred to Amargarh, District Patiala subsequently. At that time, the petitioner was posted at Chandigarh. The respondent No. 3 was born on 02.08.2002. The respondent No. 1 alleged that the behavior of the petitioner remained cruel towards her and she was not allowed to visit her parental house to attend any function or even at the time of bereavement in her parental family due to the death of her grandparents.

3. It was further pleaded by the respondents that in the year 2011, a plot at GMADA was allotted to respondent No.1. She raised loan for deposit of money for purchase of this plot as well as for registration of conveyance deed, which was done in her name as the petitioner had

Neutral Citation No. 2024:PHHC:073234

straightaway denied to pay anything for the said purpose. Then by taking loan from her parents, the respondent No. 1 got constructed a house over the said plot at Mohali but no kind of help, either financial or physical was rendered by the petitioner. Still to save her matrimonial life, respondent No. 1 had requested him to shift in the same house and they had started living there but the petitioner inflicted physical as well as mental cruelty, not only upon the respondent No. 1 but also upon his daughters, so much so that the respondent Nos. 2 and 3 were compelled to stay at the house of their maternal grandparents at Bathinda. They also convinced the respondent No. 1 to shift to Bathinda for some time and she too shifted to Bathinda on 22.05.2016. Their house at Mohali was locked. The respondents alleged that the petitioner in their absence broke open the locks of the house at Mohali on 06.06.2016 and ever since then, he has been residing in the said house and rather, deprived the respondents to stay in the house, which was purchased and constructed by respondent No. 1 by her own toil.

4. It was also alleged that the petitioner was not making any contribution for meeting out the educational and other expenses of his daughters and it was she, who was made to pay for the same. She was also making payments of monthly installments of house loan @ Rs.20,000/- per month. She was bearing the expenses for the education of both the daughters. While alleging that the petitioner, who was working in National Insurance Company and was earning a sum of Rs. 90,000/- as salary and also owned an ancestral house at Ambala and had made investments in the stock market thereby earning an amount of Rs.10 Lakhs-15 Lakhs from the same, had been neglecting and refusing to maintain the respondents.

Neutral Citation No. 2024:PHHC:073234

Therefore, they prayed for directing him to pay a sum of Rs. 30,000/- to each of the respondents.

5. The present petitioner initially appeared in response to the notice of the said petition and filed reply, wherein the relationship of the parties was admitted. However, it was alleged that the respondent No. 1 along with her daughters had left his company without any reasonable cause and without his consent and started residing at her parental house. It was the respondent No.1, who had been harassing and humiliating the petitioner on one pretext or the other. Even a complaint was lodged by her to the police against him on 23.05.2016. It was alleged that the respondent No. 1 was posted as Deputy Manager in Punjab National Bank at Bathinda Branch and she was residing there with a motive to harass the petitioner. She was fully capable of maintaining herself and her daughters. It is denied that he is liable to pay any maintenance to the respondents and, therefore, the dismissal of the petition has been prayed for by him.

6. The petitioner had absented himself during the proceedings of the petition and was proceeded against ex-parte, vide impugned order dated 15.02.2018.

7. In ex-parte evidence, the respondent No. 1 examined AW-1 Ashok, an employee of St. Joseph Convent School, Bathinda to prove that the minor respondent No. 3 was studying there and to show her expenses. She further examined AW-2 Parveen Kumar, a Senior Assistant of National Insurance Company, Manimjara, who proved that the petitioner was working as Administrative Officer at Chandigarh Branch of his insurance company and also proved his salary record, as per which, he was drawing

Neutral Citation No. 2024:PHHC:073234

gross salary amounting to Rs. 97,734/- from the insurance company during the year 2018. The respondent No.1 also examined herself as AW-3.

8. On appraising the evidence produced on record by the respondents and after considering the contentions as raised by their counsel, the learned Family Court, vide order dated 14.02.2020, partly allowed the petition filed by the respondents and though, respondent No. 1 was not held liable to receive any amount of maintenance from the petitioner on the ground that she herself was working as Branch Manager at Punjab National Bank and was fetching salary of Rs. 82,617/- but the respondent Nos. 2 and 3 were held entitled to receive maintenance @ Rs. 20,000/- each per month from the date of the filing of the petition.

9. By filing this petition, the order dated 15.02.2018, whereby the petitioner was proceeded against ex-parte and order 14.02.2020, passed by the Family Court, Bathinda, are challenged by the petitioner.

10. Learned counsel for the petitioner has argued that the impugned orders are not sustainable in the eyes of law and are liable to be set aside. The petitioner could not challenge these orders earlier due to wrong legal advice given to him. It is argued that while passing the impugned order dated 14.02.2020, the Family Court had failed to consider that it was equal responsibility of both the parents to maintain their children and, therefore, the respondent No. 1, who was fetching handsome amount of salary, was equally liable for maintaining the respondent Nos. 2 and 3. It is submitted that the impugned order dated 14.02.2020 was passed while keeping in mind the fact that the petitioner was earning a sum of Rs. 90,000/- per month, though the petitioner has lost his job due to constant harassment as meted

Neutral Citation No. 2024:PHHC:073234

out to him at the hands of respondent No.1. She had lodged an FIR against him. He was living at the mercy of his relatives and was eating meals from Gurudwara. He was not in a position to pay any maintenance to the respondents no. 2 and 3. With these broad submissions it is argued that the impugned orders are liable to be set aside and he is not liable to pay any maintenance to respondent Nos. 2 & 3.

11. *Per contra*, it is argued by learned counsel for the respondents that the petition is not at all maintainable as the impugned orders have been challenged after a period of 1317 days from the date of passing of the same. Though the delay stands condoned but no reasonable ground whatsoever has been given by the petitioner for setting aside the order 15.02.2018, whereby he was proceeded against ex-parte. The evidence which had been produced on record by the petitioner in the petition filed by the respondents proved that during that time, the petitioner was earning a sum of Rs. 90,000/- by working as Administrative Officer at Ambala and he did not lead any evidence to prove that his services were terminated. He had not filed any application for setting aside the impugned order before the Family Court and had straightway approached this Court without availing that remedy. It is, therefore, argued that the present revision petition is not maintainable and is liable to be dismissed.

12. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

13. On a careful assessment of the material available on record, it is quite apparent that the present petitioner had duly received the notice of the maintenance petition bearing No. 82/2019, which was in fact filed by the

Neutral Citation No. 2024:PHHC:073234

respondents on 15.04.2017. He had not only appeared in response to the notice but had also filed reply to the said petition, copy of which has been placed on record by the petitioner as Annexure P-2. However, he is shown to have absented himself thereafter and was proceeded against ex-parte on 15.02.2018. In present petition, there is no explanation as to why he had absented himself on 15.02.2018 and why he did not join the proceedings of the maintenance petition which was pending till 14.02.2020. More so, he filed this petition after a gap of 1317 days in the year 2024. Though, the application filed by the petitioner for condoning the delay had been allowed, vide order dated 15.01.2024 but a perusal of this order reveals that since in the head note of the application, the number of days was shown as '137' and not as '1317', it was under that impression that the delay was condoned. No explanation for condoning the delay of 1317 days has been given by the petitioner. Though, a plea has been taken that due to incomplete/wrong legal advice, he could not challenge the order dated 15.02.2018, has been taken but in the absence of any reasonable explanation having been given by him for his non-appearance with effect from 15.02.2018, in the considered opinion of this Court, no ground has been made out for setting aside the order dated 15.02.2018.

14. Then so far as the impugned order dated 14.02.2020 is concerned, vide this order, the petition filed by the respondents, had been partly allowed and though, respondent No. 1, who is wife of the petitioner, was not held entitled to receive any maintenance but respondents Nos. 2 and 3, who are the daughters of the petitioner, were held entitled to receive the same. A perusal of the impugned order dated 14.02.2020 reveals that the

Neutral Citation No. 2024:PHHC:073234

Family Court had considered the entire evidence produced on record by the respondents, which proved that the petitioner was posted as Administrative Officer in National Insurance Company at Chandigarh Branch and his gross monthly salary as in August, 2018 was Rs. 97,734.53/-. There was no occasion for the Family Court to see that the services of the petitioner had been terminated as he had absented himself from the proceedings of the said case. Except by saying that his services were terminated w.e.f. 26.08.2019, the petitioner had failed to give any other explanation for setting aside the order dated 14.02.2020 and to find fault in the same. Even if it considered that he was no more in service at that time, however, still, keeping in view the fact that the evidence led by the respondents had remained unrebutted and unshattered and since no evidence to the contrary was produced by the petitioner, in my considered opinion, the Family Court did not commit any error in passing the order dated 14.02.2020, which appears to have been passed by making detailed discussion and on the basis of the evidence produced on record. The petitioner is father of respondent Nos. 2 and 3 and it was his duty to maintain them, irrespective of the fact that he was earning or not, unless and until he could prove that he was not capable of earning. He is an able bodied person. Nothing has been brought on record by him to show that he was or is suffering from any physical infirmities, thereby incapacitating him from making efforts to earn anything. A perusal of Annexure P-8, which is a copy of order dated 26.08.2019, passed by his employer-National Insurance Company, shows that his services were terminated due to his continuous absence from 16.12.2017, though during that period, a number of opportunities were granted to him to join his

Neutral Citation No. 2024:PHHC:073234

services. Meaning thereby that he lost his job not because of any other reason but due to his own fault of continuously remaining absent from his duty. As such, loss of employment with the said insurance company by the petitioner does not absolve him from his liabilities to make payment of maintenance to respondent Nos. 2 and 3.

15. No other ground was urged.

16. In view of the discussion as made above, it is held that no manifest injustice is proved to have been caused to the petitioner due to passing of the impugned orders. These orders do not deserve to be set aside, being well-reasoned order and do not warrant any interference by this Court. Accordingly, the present petition is dismissed. However, the petitioner shall be at liberty to move appropriate application under Section 127 of Cr.P.C. to seek alteration in the order dated 14.02.2020, if so advised and in accordance with law.

22.05.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No