

128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-44-2024 (O&M)

Date of Decision: 06.03.2024

RAJNISH

.....PETITIONER

Vs.

BITA TANWAR @ BITA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Nav Chahal, Advocate, for
Mr. Sachin Kaushik, Advocate,
for the petitioner.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present Criminal Revision Petition has been filed for quashing the order dated 23.10.2023, passed by the learned Principal Judge, Family Court, Bhiwani, whereby the interim maintenance amount awarded to respondent No. 1-wife and respondent No. 2-child in a petition filed under Section 125 of the Code of Criminal Procedure, 1973 (for short '*the Code*'), has been enhanced from ₹3,000/- to ₹12,000/- per month and from ₹2,000/- to ₹5,000/- per month, respectively, in a petition filed under Section 127 of the Code.

2. Learned counsel for the petitioner *inter alia* contends that the Carry Home Salary of the petitioner is ₹40,000/- per month, out of which he has been directed to pay a total sum of ₹17,000/- per month to the respondents which he is unable to pay as he is also looking after his parents and maintaining them as well.

3. It is further contended that respondent No. 1-wife has left her matrimonial house as per her own will and as such, she is not entitled for enhancement of maintenance.

4. I have considered the aforesaid contentions.

5. Keeping in view the facts and circumstances of the case, issuance of notice to the respondent is disposed with.

6. A perusal of the paper-book would reveal that the petition under Section 125 of the Code, i.e. petition No. 310 of 2018 filed by respondent No. 1-wife and respondent No. 2-child was allowed, as per the judgment dated 04.01.2020 passed by the learned Family Court, Bhiwani, whereby a sum of ₹3,000/- per month was awarded to respondent No. 1-wife and a sum of ₹2,000/- per month was awarded to the minor child of the petitioner. Thereafter, with the passage of time, respondent No. 2-child had grown up and at the time of filing the petition under Section 127 of the Code for enhancement of the maintenance amount, the age of the child was 05 years. The Family Court has observed in paragraph No. 9 of the impugned order that the child is now studying in Nursery in Vaish Model Senior Secondary School, Bhiwani and all expenses are being borne by her mother.

7. During the course of arguments, the counsel for the petitioner also informed the Court that the petitioner had filed a divorce petition against the respondent-wife which has been allowed on 13.03.2023. The said fact further strengthened the case of the respondents that the petitioner has not made any efforts for rehabilitating his wife and minor child, as such the order passed by the learned Principal Judge, Family Court, Bhiwani, in a petition under Section 127 of the Code is well justified.

8. The Hon’ble Apex Court, in the case of “Jagannath Choudhary vs. Ramayan Singh”; 2002(2) R.C.R. (Criminal) 813, has held that the object of the revisional jurisdiction, as envisaged under Section 401 Cr.P.C. was to confer upon superior criminal courts a kind of paternal or supervisory jurisdiction, in order to correct miscarriage of justice arising from misconception of law, irregularity of procedure. Where the Court concerned does not appear to have committed any illegality or material irregularity or impropriety in passing the impugned order, the revision cannot succeed.

9. With the passage of time, the prices have accelerated; the child is grown up, the educational expenses have been taken care by the Family Court and the relationship of the parties and salary of the petitioner is admitted. The order passed by the learned Family Court in a petition under Section 127 of the Code is well reasoned and justified. No ground for interference is made out.

10. Consequently, the petition stands dismissed.

11. Pending miscellaneous application (s), if any, shall also stand disposed of.

March 06, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No