

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

CRR(F) No.188 of 2020 (O&M)
Date of Decision: 15.04.2024

Nanu Lal ... Petitioner

Versus

Pooja and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikrant Rana, Advocate,
for the petitioner.

None for the respondents.

MANISHA BATRA, J. (Oral)

CRM-32272-2022

The application is allowed, as prayed for and order dated 24.02.2020 Annexure A-1 is taken on record.

CRR(F) No.188 of 2020 (O&M)

1. The instant petition has been filed by the petitioner challenging the order dated 29.10.2019 as passed by learned Additional Principal Judge, Family Court, Gurugram in MNT125/239/2016 titled as *Pooja and another v. Nanu Lal* whereby maintenance to the tune of Rs.5,000/- per month to the petitioner No.1 and Rs.3000/- per month to the petitioner No.2 had been directed to be paid.
2. For the sake of continuity and coherence, parties shall be referred to hereinafter as per the same nomenclature as given before the learned Family Court.

Neutral Citation No.2024:PHHC:050788

3. Brief facts of the case relevant for the purpose of the present case are that the marriage of the petitioner No.1 was solemnized with the respondent on 08.02.2011. The petitioner No.2 was born on 01.10.2013. The respondent including other members of her in-laws family harassed her on account of demand of dowry and she was subjected to cruelty to that extent that she was thrown out of her matrimonial house several times. Previously, matter had been reported to the police and was compromised. However, the behaviour of the respondent or his family members did not change and ultimately, the petitioner No.1 along with her son was compelled to leave her matrimonial house and was residing in her parental house since 18.03.2016. She submitted that she was working on contract basis and was getting meager amount of money and was unable to maintain herself and her minor child whereas the respondent had neglected and refused to maintain them without any plausible reason. Therefore, she prayed for directing the respondent to pay an amount of Rs.20,000/- per month for their maintenance. The respondent had appeared before the learned Family Court and had contested the petition by submitting that he was working as a casual operator and was fetching income of Rs.7000/- to Rs.9000/- per month only whereas the petitioner No.1 was a working woman employed in some Government job and was fully capable to maintain herself.

4. The parties were granted opportunity to produce evidence. The petitioner No.1 examined three witnesses including herself whereas, the defence of the respondent was struck off vide order dated 16.05.2019 due to non-payment of the interim maintenance amount.

5. After hearing arguments advanced by learned counsel for both the parties, the learned Family Court passed the impugned order and feeling

Neutral Citation No.2024:PHHC:050788

dissatisfied from the same, the present petition has been filed by the respondent.

6. It is argued by learned counsel for the respondent that the impugned order is not sustainable in the eyes of law as while passing the same, the learned Family Court ignored that the petitioner No.1 was also earning good amount of money and was fully capable to maintain herself as well as the minor petitioner No.2. She had left her matrimonial house at her own accord and without any sufficient cause and had never been neglected and refused to be maintained by the respondent and, therefore, was not entitled to receive any maintenance. With these submissions, he argued that the impugned order is liable to be set aside and the revision petition deserves to be accepted.

7. I have heard learned counsel for the petitioner at considerable length and have gone through the record.

8. A perusal of record reveals that in the petition filed by the petitioners under Section 125 of Cr.P.C., though the respondent had appeared and filed reply but his defence was struck off vide order dated 16.05.2019 due to non-payment of arrears of interim maintenance and as such, he was not granted any opportunity to produce any evidence in his defence. Learned counsel for the respondent has very fairly admitted that the order dated 16.05.2019 had never been challenged by him. Admittedly, relationship of husband and wife is subsisting between the petitioner No.1 and the respondent (who is the petitioner in this case) and admittedly their son is minor. Though it has been alleged by the respondent that the petitioner No.1 is employed in some Government job but it has been come on record of the impugned order that she was working on contract basis and

Neutral Citation No.2024:PHHC:050788

the details of her salary had not been disclosed either by the petitioner No.1 or by the respondent.

9. The respondent is claiming that he is working as a casual operator on toll tax barrier and is hardly earning sum of Rs.7000/- to Rs.9000/- per month and, therefore, is not in a position to maintain the petitioners. The respondent is an able bodied young man. The parties are living separately since the year 2016. The respondent has not been able to bring any evidence on record to show that the petitioner No.1 had willingly withdrawn from his company. There is nothing on record to show that there was any effort on his part to rehabilitate the petitioners with him during the pendency of the petition filed by them or even thereafter. It is the moral as well as legal obligation of the respondent 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 respondent to meet the needs and requirements of food, shelter and medical treatment etc. of his wife as well as his child.

10. The learned Family Court while taking all the abovementioned facts into consideration and on the basis of evidence produced on record by the petitioners which has gone unrebutted and unchallenged, had directed the respondent to pay an amount of Rs.5000/- per month to petitioner No.1-wife and Rs.3000/- per month to the petitioner No.2-minor son who is a school going child. This amount cannot be stated to be excessive or inconsistent with the status of the respondent and is bare minimum and commensurate with the day to day requirement of the petitioners. It is well settled proposition of law that order granting maintenance to helpless wife and child

Neutral Citation No.2024:PHHC:050788

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, finding no reason to interfere with the same, the revision petition is dismissed.

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

15.04.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No