

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

120

CRR (F) No.271 of 2024 (O&M)
Date of decision: 26.02.2024

Bittoo ... Petitioner

Vs.

Kiran and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Dr. Naresh Kaushik, Advocate,
for the petitioner.

MANISHA BATRA, J.

CRM-8399-2024

This is an application for condonation of delay of 259 days in
filing the present revision petition.

For the reasons mentioned in the application, the same is
allowed and the delay of 259 days in filing the present revision petition is
condoned.

Main Case

1. The present petition has been filed by the petitioner under
Section 401 read with Section 482 of Cr.P.C. seeking setting aside of the
order dated 02.03.2023 as passed by learned Principal Judge, Family
Court, Bhiwani in Maintenance Petition No.131 of 2020 titled as Smt.

Kiran and others v. Bittoo whereby maintenance to the tune of Rs.4000/- per month for respondent No.1 and Rs.2000/- per month each to respondents No.2 and 3 had been directed to be paid by the present petitioner.

2. For the sake of convenience, the parties shall be referred to as per their original nomenclature as given before the Family Court.

3. Brief facts relevant for the purpose of disposal of this petition are that the petitioners Smt. Kiran along with her two minor children had filed the aforementioned petition under Section 125 of Cr.P.C. alleging therein that she got married with the respondent in the year 2008. Her parents had incurred huge amount of money and had given sufficient dowry articles at the time of marriage as per demands of the respondent and his family members. However, the family members of the respondent used to give taunts to the petitioner No.1 by showing that she belonged to different castes and had lowered down their image before the society. She was subjected to mental as well as physical cruelty by them even on trivial matters and the respondent also joined his family members and they used to raise demand of money from petitioner No.1. Ultimately, she was ousted from her matrimonial house as on 01.10.2015 after being given severe beatings and eversince then she was residing at her parental house. She had no source of income and to maintain her children and herself. While alleging that the respondent owned a truck and was earning a sum of Rs.60,000/- per month, she prayed for directing him to make payment of maintenance to the petitioners.

4. The respondent initially appeared in response to the notice of the petition and filed reply admitting the factum of a marriage between the petitioner No.1 and himself and relationship with the minor petitioners but alleged that the petitioner No.1 was already married with one Sant Ram and was having even two children from the said wedlock but the said fact had been concealed by her. He alleged that now she was living in adultery with one Manjeet and did not want to join the company of the respondent. He also alleged that he was a jobless person.

5. The parties were also given opportunity to adduce evidence. The petitioners produced evidence. However, the respondent did not produce any evidence and ultimately his evidence was closed by order of the Court. The learned Family Court after considering the material placed on record and after giving due deliberations to the contentions as raised by both the sides, passed the abovementioned order thereby directing the respondent to make payment of amount of maintenance as mentioned above.

6. It is argued by learned counsel for the respondent-husband (now to be mentioned as petitioner) that the impugned order is liable to be set aside as while passing the same, the learned Family Court ignored the fact that the respondent No.1 -wife had herself deserted his company without any sufficient cause and was living in adultery. She had also concealed the fact that she was already married and her marriage was not dissolved. Therefore, it is argued that the impugned order is liable to be set aside.

7. I have heard learned counsel for the petitioner at a considerable length and have gone through the record. Since, on a perusal of record, it is crystal clear that the present petitioner had not led even an iota of evidence before the Family Court to prove the factum that the respondent No.1-wife had deserted him, that she was already married or that now she was living in adultery, therefore, the mere oral allegations to this effect do not serve any purpose. The learned Family Court had carefully gone through the entire evidence produced on record and had observed that the petitioner owned three acres of agricultural land. He had previously sworn an affidavit thereby admitting to give an amount of Rs.8000/- to the petitioners to maintain them and as well as for studying of the minor respondents. Keeping in view the fact that even a skilled labourer now a days does not earn less than Rs.15,000-20,000/- per month coupled with the fact that the present petitioner failed to produce any evidence before the learned Family Court to prove that he was either jobless and was not having any source of income and further that being husband of respondent No.1 and father of the minor respondents, it was his duty to maintain themselves, in my considered opinion, the amount of maintenance as directed to be paid by him to the respondents cannot be stated to be excessive rather the same is proper. It is the moral as well as legal obligation of the petitioner to maintain his wife and children. 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 children.

8. 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.4000/- per month to respondent No.1-wife and Rs.2000/- per month each to respondents No.2 and 3-children who are 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 respondents also. It is well settled that order granting maintenance to helpless wife and children 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, the revision petition is dismissed.

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

(MANISHA BATRA)
JUDGE

26.02.2024
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No