



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-71-2021(O&M)

Date of order: 09.12.2024

Sunita Rani

.....Petitioner(s)

Vs.

Anup Heer

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Mohd. Yousaf, Advocate and
Ms. Arzoo, Advocate for the petitioner.

Mr. Amit Dhawan, Advocate for the respondent.

Nidhi Gupta, J.

Prayer in the present petition filed by the wife is for modification of the order dated 01.02.2020 passed by learned Additional Principal Judge, Family Court, Jalandhar, whereby in a proceeding under Section 125 Cr.P.C. the petitioner has been granted final maintenance of Rs.3,000/- per month from the date of institution of the petition.

2. Learned counsel for the petitioner *inter alia* submits that the impugned meager maintenance of only ₹3000/- per month is liable to be enhanced in view of the fact that admittedly, the respondent-husband is earning about Rs.10,000/- p.m. It is stated that accordingly the petitioner is entitled to more maintenance as the amount of Rs.3,000/- p.m. is not enough to meet even the daily requirements of the petitioner. The petitioner is residing at her parental house. Her father is a poor man and



he is only a tailor. It is accordingly prayed that the impugned order be modified and the maintenance so granted to the petitioner be enhanced.

3. Learned counsel for the respondent-husband vehemently opposes prayer made on behalf of the petitioner and submits that the petitioner herself had filed a petition under Section 13 of the Hindu Marriage Act, which has been allowed *ex parte* and vide judgment and decree dated 23.01.2023 passed by the learned Principal Judge Family Court, marriage between the parties has been dissolved. A copy of the said judgement is handed over in Court and is taken on record. It is further submitted that the respondent-husband and other co-accused have been acquitted in FIR No. 51 dated 30.07.2015 under Sections 406, 498-A IPC registered at Police Station Women Cell, Jalandhar vide judgment dated 29.11.2019 passed by the learned Judicial Magistrate 1st Class, Jalandhar. A copy of the said judgment has been handed over in Court which is taken on record.

4. Learned counsel for the petitioner does not dispute the above said facts.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel for the parties and perused the case file in great detail.

7. Perusal of record of the case shows that the petitioner was married to the respondent on 05.03.2014. No child was born out of their



wedlock. The present petition under Section 125 Cr.P.C. was filed by the petitioner on 01.09.2015 i.e. within less than one year of marriage.

8. It is the contention of the petitioner that the respondent is earning about Rs.10,000/- p.m. and, therefore, impugned maintenance deserves to be enhanced. However, it has been categorically admitted by the petitioner at Bar that she herself is a postgraduate in Punjabi. However, she is not working despite being able-bodied. It has also come on record that prior to her marriage, the petitioner was doing job, however, stopped working after getting married to the respondent.

9. In similar circumstances, the Hon'ble Supreme Court in case of **"Bhushan Kumar Meen v. Mansi Meen Alias Harpreet Kaur (SC)": Law Finder Doc Id # 547724**, has held that *"However, having regard to qualifications that Wife possesses, there is no reason why she ought not to be in a position to also maintain herself in future..."*. Similar view has been taken in case of **"Anu Kaul vs. Rajeev Kaul (SC)": Law Finder Doc Id# 183207**.

10. Reference may also be made to judgment of the Karnataka High Court in **"Smt. Shilpashree J. M. & Others Vs. Gurumanjunatha A.S. & Others", 2023 SCC OnLine Kar 36, Law Finder Doc ID # 2260157**, wherein it has been held as under:-

"8. The records also disclosed that before marriage petitioner No.1 was working as is evident from her cross examination. Her cross examination also reveals that she was residing along with her mother. It is also evident from her admission that, even after her



desertion she continued to stay in the rented house along with her mother itself and the allegation does establish that she was not interested to stay with respondent Nos. 2 to 4. It is an admitted fact that at the instance of the present petitioner No. 1, a separate house was taken on rent and now the petitioners i.e., wife and child are residing therein along with her mother, but she was reluctant to stay with her mother-in-law and unmarried sister-in-law. It is an admitted fact that respondent No. 1- husband is running provision stores. Further, he is having responsibility of taking care of his mother and unmarried sister. Admittedly, the petitioner No. 1 was working prior to her marriage and it is asserted that after marriage she resigned the said job. But, there is no explanation as to why she is incapable of working now. She is not supposed to sit idle and seek entire maintenance from her husband and she is also legally bound to make some efforts to meet her livelihood and she can seek only supportive maintenance from her husband".

(Emphasis supplied)

11. The respondent had admittedly also filed a petition under Section 9 of the Hindu Marriage Act. However, it was the petitioner who had refused to go back to the matrimonial home. As such, as per the provision of Section 125(4) Cr.P.C., the petitioner would not be entitled to maintenance. Admittedly, at the time of passing of the impugned order, the respondent had produced his affidavit (Ex.PW1/A) to depose that he was fired from his job with M/s. Singla Associates, Kala Amb, District Sirmaur as he used to take constant leaves due to litigation initiated against him by the petitioner. As such, the learned trial Court had taken him as a labourer and had presumed his income to Rs.9,000 to Rs.10,000/- p.m. and



thus granted the impugned maintenance. It is also not disputed by learned counsel for the petitioner that the petition filed by the petitioner under Section 13 of the Hindu Marriage Act has been allowed by the learned Principal Judge, Family Court, Jalandhar vide judgment and decree dated 23.01.2023; and that the respondent and other co-accused have been acquitted in FIR No. 51 dated 30.07.2015 under Sections 406, 498-A IPC registered at Police Station Women Cell, Jalandhar vide judgment dated 29.11.2019 passed by learned Judicial Magistrate 1st Class, Jalandhar.

12. Admittedly, the petitioner is able-bodied and well qualified. The petitioner has placed nothing on record in support of her contention that she has no work. As such, she is only entitled to supportive maintenance, if at all.

13. It is my considered view that it is first and foremost duty of the petitioner to maintain herself. Especially keeping in mind, the fact that she is able-bodied and qualified. The purpose of Section 125 Cr.P.C. is to protect abandoned wives who are unable to maintain themselves from vagrancy and destitution. A three-Judge Bench of the Hon'ble Supreme Court in "**Vimala (K.) v. Veeraswamy (K.)**" (1991) 2 SCC 375, speaking through Justice Fatima Beevi, held as follows:

"3. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife..."



14. Again, in “**Kirtikant D. Vadodaria v. State of Gujarat**” (1996) 4 SCC 479, the Hon’ble Supreme Court has opined as follows:

“15. ...While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation...”

15. The clear purpose of the provision is to grant social justice to a destitute woman, child, or infirm parents. A bare reading of Section 125 Cr.P.C. itself indicates that maintenance is admissible to a wife who is ‘*unable to maintain herself*’. In the present case that is not so. As such no ground is made out that calls for interference in the impugned order.

16. Keeping in view the totality of the facts and circumstances of the case as noticed above, the present petition is hereby **dismissed**.



17. Pending application(s) if any also stand(s) disposed of.

09.12.2024

Divyanshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No