

**CR No.2029 of 2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.119****Case No. : CR No.2029 of 2024****Date of Decision : May 24, 2024**

Happy Khan

.... Petitioner

vs.

Marjina Rani and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in the present revision petition is to the order dated 19.09.2023 (Annexure P-3), passed by learned Additional Principal Judge, Family Court, Camp Court, Malerkotla (hereinafter referred to as – Family Court), whereby defendant/respondent no.1 has been granted interim maintenance pendente lite @ Rs.2500/- per month to be paid by the plaintiff/petitioner, in addition to Rs.3500/- as costs of litigation.

2. The brief facts, necessary for disposal of instant revision petition, are that the plaintiff/petitioner filed suit for restitution of conjugal rights and defendant/respondent no.1 and permanent injunction restraining defendant/respondent no.1 from contracting second marriage during the life-time of the plaintiff/petitioner and further restraining defendants/respondents no.2 to 7 from negotiating and arranging a second marriage of defendant/respondent



no.1 with any person, without getting divorce from the plaintiff/petitioner.

3. During pendency of the aforesaid suit, defendant/respondent no.1 moved an application under Section 151 CPC read with provisions of Section 26 of the Protection of Women from Domestic Violence Act, 2005 (from brevity – DV Act), for grant of interim maintenance, litigation expenses, residential accommodation, compensation etc.

4. The plaintiff/petitioner contested the application by filing reply.

5. The learned Family Court allowed the aforesaid application and granted relief of interim maintenance along with litigation expenses to be paid by the plaintiff/petitioner.

6. Learned counsel for the petitioner has argued that the suit was filed for restitution of conjugal rights and permanent injunction. In the said suit, application under Section 151 CPC read with Section 26 of the DV Act, which was filed by respondent no.1, was not maintainable. So, no relief could have been granted on such application. It has further been submitted that the petitioner is a labourer and is not having any permanent income. Even respondent no.1 has failed to disclose income of the petitioner through any documentary evidence.

7. I have heard the submissions of learned counsel for the petitioner and perused the case file.

8. The relationship between petitioner and respondent no.1 is not in dispute. Respondent no.1 is legally wedded wife of the petitioner. Petitioner has filed suit for restitution of conjugal rights. In this suit, application has been filed by respondent no.1 under Section 151 CPC read



with Section 26 of the DV Act. The application is only for grant of interim maintenance. The learned Family Court has only granted interim maintenance. Mere mentioning of wrong provision or wrong act does not take away the right of the applicant. Learned Family Court, has relied upon a judgment of this Court namely **Sabri vs. Mohd. Jamil and others and Gulaksha vs. Zafar Iqbal and others – 2019 (4) RCR (Civil) 734**, wherein it is held that a Muslim woman is entitled to maintenance pendente lite in a petition filed for restitution of conjugal rights. Since application for interim maintenance is maintainable in the suit for restitution of conjugal rights, mere mentioning of wrong provision or wrong Act does not take away the right of applicant to get interim maintenance.

9. So, I am of the view that the application filed by respondent no.1 is maintainable and has been rightly treated by learned Family Court as application for interim maintenance. It is specifically asserted by respondent no.1 in the application that she is a poor and rustic lady and has no means of livelihood. She does not possess any movable or immovable property. The petitioner has not provided any maintenance to her or her daughter. A sum of Rs.2500/- per month only has been granted as maintenance pendente lite in the suit filed for restitution of conjugal rights. The petitioner even did not disclose his income. The minimum wages of an unskilled labourer in Punjab these days is about Rs.10,000/- per month. So, the interim maintenance granted to respondent no.1 by the learned Family Court is not, in any way, on the higher side. It is neither too low nor too high.

10. In view of the above discussion, I do not find any ground to

interfere in the lawful order passed by the learned Family Court. No ground is made out to entertain the present revision petition, which is accordingly dismissed in limine.

11. Pending applications, if any, shall stand disposed of along with this judgment.

May 24, 2024

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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.