

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

120

CRR-F-308-2024 (O&M)
Date of order: 29.02.2024

Jagminderjit Kaur

.....Petitioner(s)

Vs.

Tarsem Singh

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Gurmail Singh Duhan, Advocate
for the petitioner.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 06.01.2024 passed by learned Additional Principal Judge, Family Court, Amritsar, whereby application filed by the petitioner/wife under Section 125 Cr.P.C. for grant of interim maintenance, is dismissed.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the respondent on 01.12.2019. One son was born out of their wedlock on 20.09.2020, who is in the care and custody of the petitioner. It is submitted that the petitioner had filed an application under Section 125 Cr.P.C. for grant of permanent maintenance on 13.12.2021. In the said proceedings, the petitioner had also filed an application for grant of interim maintenance, which has been dismissed vide the impugned order dated 06.01.2024.

3. Ld. Counsel submits that the impugned order has been passed primarily on the ground that the petitioner had failed to disclose that she was in employment. It is submitted that the said conclusion on

part of learned Family Court is erroneous and contrary to the record as in para 4 of the petition under Section 125 Cr.P.C. (Annexure P1) filed by the petitioner, she had specifically pleaded that she was doing a job and would not quit her job upon getting married, but would get her job transferred as per the wishes and demands of the respondent side.

4. Ld. Counsel also refers to the averments made by the petitioner in Para 7 of the application, which are as under:-

*"7. That after one month of marriage the respondent no. 1, 2, 3 started showing their actual behavior and original colors and one day respondent no. 1, 2, 3 snatched her all gold articles and after demanding back they pulled her from hairs, started beating her, slapped her and said "**Kanjriye Tenu nhi ptaki Gaddi vi laike ani chahidi si, tu sadi rishterdara vich miti paleet kra diti**" and give taunts on every talks. Respondent no. 1 and 3 forcibly snatched the petitioners ATM of Bank HDFC, Branch Tarn-Taran, Jandiala Road, Amritsar which the respondent no. 1 kept in his possession for 7-8 months and use all the salary amount of the petitioner and never give her a single penny and all respondents in connivance misused, manipulate the funds as per their wishes and requirement to the extent of purchasing brand new phone, brand new A.C etc. from the petitioners salary account. Moreover the petitioner whenever objected to such acts and behavior of the respondents the petitioner was beaten with stick or other articles. The petitioner was even allowed to use a single for herself but the petitioner tolerated all such acts and behavior of the respondents hoping that better sense would prevail and gradually the respondents would mend their behavior but all in vain.*

5. It is submitted that accordingly, the petitioner had not concealed anything from the learned Family Court, but had categorically and clearly disclosed that she was in employment.

6. Learned counsel also refers to affidavit of assets and liabilities filed by the petitioner (Annexure P2), wherein in Column-F, the petitioner has stated that she was working as a 'Block Technology Manager' with Sustainable Agriculture Development Agency (SADA), Sada Kheti Bhawan, Phase-6, Near Dara Studio, Mohali. It is submitted that thus, the sole premise on which the petitioner's application has been dismissed that she had failed to disclose her employment before the learned Family Court, is incorrect. Therefore, the impugned order be set aside.

7. No other argument is made on behalf of the petitioner.

8. I have heard learned counsel for the petitioner and perused the case file in detail.

9. Perusal of record of the case shows that the learned Family Court has clearly noticed in the impugned order that the petitioner was doing Government job and was drawing a salary of Rs.49,000/- per month approximately. Thus, the contention on part of the petitioner that her prayer for grant of interim maintenance has been dismissed on the ground that she had failed to disclose that she was in employment, is borne out to be false.

10. On the contrary, learned Family Court has passed the impugned order on the ground that it was the respondent who did not have any source of regular income as he had done his M.Sc. Forestry and was now taking coaching class as he was for preparing for competitive

exams, for which purpose he had also taken Rs.60,000/- as loan for his study. In this regard, Learned Family Court had also examined bank statements of both the parties wherein no credit entries were found in the bank account of respondent/husband except for the entry of Rs.60,000/-; whereas bank statement of the petitioner showed that she was getting salary of Rs.48,000/- to Rs.50,000/- per month. Even the Jamabandis placed on record by the petitioner regarding agricultural land alleged to be owned by the respondent, were found to be in the name of father of the respondent.

11. Perusal of record further shows that as per the affidavit of assets and liabilities of the respondent/husband (Annexure P4), in column-F, he has shown himself to be a Car Washer/Cleaner and his monthly income to be Rs.5,000/-.

12. Besides the above, a bare reading of the pleadings contained in the application filed by the petitioner under Section 125 Cr.P.C., shows that she has not clearly stated therein that she was employed with Sustainable Agriculture Development Agency, Sada Kheti Bhawan, Phase-6, Near Dara Studio, Mohali and drawing a salary of about Rs.49,000/- per month. The only averment made in respect of her employment is contained in Para 4 of the application u/s 125 Cr.P.C., and reads as follows:-

“4. That it is pertinent to mention the respondents in connivance after the few days of the engagement ceremony started pressurizing the petitioner and her widowed mother firstly either to quit job or otherwise get petitioners job transferred to Ludhiana before marriage but the petitioner's mother who faced hardships of life as lady after lot of heated

arguments convinced the respondents that the petitioner would not quit job but would get her job transferred as per wishes demands of the respondents. Besides this the petitioner adjusted to all the whims, conditions of respondents and petitioner under undue pressure and to please the respondents, the petitioner finally transferred herself to Ludhiana as per the condition of the respondents in June 2019.”

13. Therefore, the petitioner in the first instance had not been clearly forthcoming about her employment in her application.

14. It is only in the subsequent affidavit of assets and liabilities (Annexure P2) filed by the petitioner in compliance of directions of the Hon’ble Supreme Court in case of **Rajnesh Vs. Neha 2021 (2) SCC 324**, that the petitioner has stated that she was employed with Sustainable Agriculture Development Agency Sada Kheti Bhawan, Phase-6, Near Dara Studio, Mohali and had a monthly income of about Rs.49,000/-. It was in this background that the learned Family Court had observed that the petitioner had failed to disclose the above facts in detail in her petition and had therefore, tried to conceal the factum of her employment from this Court.

15. At this stage, reliance may be placed upon judgment of Hon’ble Karnataka High Court in **Smt. Shilpashree J. M. Vs. Gurumanjunatha A.S., 2023 SCC OnLine Kar 36,** 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)

16. In view of the above, I find no merit in the present petition, and the same is accordingly **dismissed**.

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

29.02.2024

Sunena

(Nidhi Gupta)

Judge

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