

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-334-2024 (O&M)
Date of order: 05.03.2024

Darshan Singh

.....Petitioner(s)

Vs.

Harpal Kaur

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashish Gupta, Advocate
for the petitioner.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 10.01.2024 passed by learned Additional Principal Judge, Family Court, Bathinda, whereby in an application filed by the respondent-wife under Section 125 Cr.P.C., an amount of Rs.4,000/- per month has been granted as interim maintenance, from the date of institution of the application till disposal of the main application, along with Rs.2000/- as litigation expenses.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the respondent on 05.01.1990. It was the second marriage for the petitioner. Two sons were born out of the wedlock between the petitioner and the respondent. Both sons are now married and living independently. The petitioner and the respondent are living separately since 17.11.2019. Learned counsel contends that the respondent is not entitled to maintenance as she had refused to reside with the petitioner and had left the matrimonial home of her own accord. It is

further submitted that the respondent is leading an adulterous life. Ld. Counsel refers to affidavit dated 27.02.2024 (Annexure P3) of the son of the petitioner and respondent, wherein he has attested to this fact. It is further submitted that the petitioner is an old person suffering from various ailments like diabetes and other conditions of heart, eyes, kidney and peripheral nervous system etc. The petitioner has retired from the Army and is now getting a meager pension, most of which is spent towards his medication and in discharge of his house loan. It is therefore, prayed that the impugned order be set aside.

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

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

5. Perusal of record of the case shows that respondent/wife had filed an application under Section 125 Cr.P.C. on 22.06.2020, wherein vide the impugned order, the petitioner has been directed to pay Rs.4,000/- per month as interim maintenance to the respondent/wife. In compliance of law laid down by Hon'ble Supreme Court in case titled as **"Rajnish Vs. Neha" Criminal Appeal No.730 of 2020, Law Finder Doc ID # 1760057**, both the parties had filed their affidavits of assets and liabilities before the learned Family Court. As per the affidavit submitted by the petitioner, he had claimed his monthly income to be Rs.16,000/- and expenditure to be Rs.17,000/-. On perusal of record, learned Family Court found that as per the copy of accounts statement of the petitioner, an amount of Rs.22,522/- was credited into his account every month on 31.05.2023, 30.06.2023, 01.09.2023 and 29.09.2023.

6. From the above, it appears that the petitioner is drawing a pension of Rs.22,522/- per month. The said statement of accounts further depicted that the petitioner was paying an installment of Rs.7,845/- per month towards loan. As such, income of the petitioner was taken to be Rs.15,000/- per month. However, it was admitted on record that the petitioner had also got Rs.8 lakh as retiral benefits. This fact was proven from the evidence of Naib Subedar Shambhu Singh, who was examined on 06.06.2022, wherein he testified that the petitioner had received Rs.8,14,671/- as gratuity from the Department. No doubt, the petitioner must be drawing interest on the gratuity as well. It was in this background that the learned Family Court had awarded Rs.4,000/- per month as interim maintenance to the respondent.

7. Relationship between the petitioner and the respondent is admitted. As regards the allegation made on part of the petitioner that the respondent is living in adultery, the same is a matter of evidence and cannot be delved into by this Court at this stage.

8. Accordingly, in view of the facts as noticed above, I find no infirmity in the impugned order.

9. Present petition, accordingly, stands **dismissed**.

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

05.03.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No