



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

201

CRR-F-222-2022(O&M)
Date of order: 21.11.2024

Ashish Shukla

.....Petitioner(s)

Vs.

Sonia

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vaibhav Sehgal, Advocate
for the petitioner. (on V.C.)

Mr. Amit Dhawan, Advocate
for the respondent.

Nidhi Gupta, J.

Challenge in the present petition is to the order dated 11.04.2019 passed by the learned Principal Judge, Family Court, Jalandhar, whereby in a proceeding under Section 125 Cr.P.C., the petitioner has been directed to pay interim maintenance of Rs.5,000/- per month to the respondent/wife from the date of application along with litigation expenses of Rs.5,000/-.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the respondent on 24.06.2012. No child was born out of their wedlock. It is submitted that the respondent had left the matrimonial home on 10.04.2014 of her own free will, on the pretext of attending the marriage of her brother in Uttar Pradesh. Present petition under Section 125 Cr.P.C. was filed on 11.01.2018. Learned counsel refers

to the order dated 20.04.2022 passed by a Co-ordinate Bench of this Court, which is reproduced hereinbelow:-

“Additional affidavit of the petitioner filed in the Court today is ordered to be taken on record.

*Learned counsel for the petitioner inter alia contends that in addition to the monthly maintenance of Rs.5000/- awarded to be paid by the petitioner in the impugned proceedings under Section 125 Cr.P.C., the respondent had also been awarded maintenance @ Rs.8000/- per month in the proceedings under Section 24 of the Hindu Marriage Act, 1955 (for short – 1955 Act); in view of the law laid down by the Supreme Court in **Rajnish Vs. Neha and another (2021) 2 Supreme Court Cases 324** the amount of maintenance @ Rs.5000/- per month awarded through the impugned order has to be set off/adjusted against the maintenance granted to her in the proceedings under the 1955 Act; Rs.2,57,000/- is due to be paid by the petitioner as maintenance granted under the 1955 Act which the petitioner undertakes to pay in six equal instalments of Rs.50,000/- each and the first instalment in this regard shall be paid by him on 21.04.2022.*

Subject to deposit of Rs.22,000/- by the petitioner with the Registrar General of this Court, to be disbursed to the respondent as litigation expenses, let notice in the application for condonation of delay as also in the main petition be issued to the respondent for the adjourned date.

Adjourned to 08.08.2022.

Subject to the petitioner adhering to the afore timeline given by him with regard to the payment of arrears of maintenance awarded in the proceedings under the 1955 Act, the maintenance awarded through the impugned order is stayed.

It is clarified that in addition to the afore arrangement the petitioner shall also continue to pay Rs.8000/- per month to the respondent.”

3. Learned counsel for the petitioner submits that the aforesaid order dated 20.04.2022 be made absolute as admittedly the respondent is presently better placed as, instead of Rs.5,000/- per month granted to her vide impugned order dated 11.04.2019, she is now being paid Rs.8,000/- per month as per the above said order. It is further informed that the petitioner is not in arrears of any maintenance as on date.

4. Learned counsel for the respondent admits the said facts to be true and further admits that the petitioner is not in arrears of any maintenance.

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 it is admitted fact on record that the respondent was also receiving maintenance of Rs.8,000/- per month in the proceedings under Section 24 of the Hindu Marriage Act, 1955. However, this fact was not brought before the learned Family Court and therefore, the maintenance granted under the two provisions of law i.e. Section 125 CRPC, and Section 24 HMA, could not be adjusted/set off against each other as required as per law.

8. In view of the above facts and also in view of the ‘no objection’ of the learned counsel for the respondent, the order dated 20.04.2022 is made absolute. It is directed that the petitioner shall pay a total amount of Rs.8,000/- per month as interim maintenance to the respondent.

9. Present petition stands **disposed of** in above terms.

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

11. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the matter.

21.11.2024
Sunena

(Nidhi Gupta)
Judge

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