

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-424-2024(O&M)

Date of order: 20.03.2024

Smt. Preeti & Another

.....Petitioner(s)

Vs.

Gurmeet

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anand Singh, Advocate
for the petitioner.

Nidhi Gupta, J.CRM-12895-2024

This is an application under Section 5 of Limitation Act
for condonation of delay of 6 days in filing the petition.

After going through the contents of the application,
which is supported by affidavit of the applicant/petitioner No.1, the same is
allowed subject to all just exceptions and delay of 6 days in filing the
present petition is condoned.

CRM-12896-2024

This is an application under Section 482 Cr.P.C. seeking
exemption from filing certified copies of impugned order and Annexure(s)
and permission for filing the true typed copies of the same.

After going through the contents of the application,
which is supported by affidavit of the applicant/petitioner No.1, the same is

allowed subject to all just exceptions and aforesaid documents/judgments and Annexures are placed on record.

MAIN CASE

Challenge in the present petition is to order dated 13.12.2023 passed by learned Principal Judge, Family Court, Sonapat whereby the petition filed by the petitioners under Section 125 Cr.P.C. has been dismissed qua petitioner No.1/wife; and respondent/husband has been directed to pay a sum of only Rs.5,000/- per month to petitioner No.2/daughter.

2. Learned counsel for the petitioners inter alia submits that the impugned order is on the face of it wrong and unsustainable as the learned Family Court has failed to appreciate that relationship between the parties is admitted and therefore, petitioner No.1/wife was also entitled to maintenance. It is submitted that petitioner No.1 also has a minor child/petitioner No.2 to look after and therefore, maintenance granted to petitioner No.2 deserves to be enhanced. It is further submitted that petitioner No.1 has also filed a petition under Section 9 of the Hindu Marriage Act, 1955 before the learned Family Court, Sonapat.

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

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

5. Perusal of record of the case shows that petitioner No.1 was married to the respondent on 05.02.2016. Petitioner No.2/daughter was born to the parties on 18.12.2016. Due to marital discord, the parties

are living separately and petition under Section 125 Cr.P.C. was initiated by the petitioners on 14.09.2020.

6. Perusal of record of the case shows that petitioner No.1/wife and respondent/husband had filed their respective affidavits of assets and liabilities before the learned Family Court in compliance of directions issued by Hon'ble Supreme Court in "**Rajnesh Vs. Neha & Anr.**" **Criminal Appeal No.730 of 2020, Law Finder Doc ID # 1760057**. In the affidavit filed by petitioner No.1 she has disclosed that she is employed and her monthly income is Rs.14,684/- per month. Respondent/husband too is employed and is drawing a salary of Rs.16,000/- per month. Although, it was alleged by the petitioners before the learned Family Court that the respondent had income from agricultural land however, the petitioners were unable to produce any proof regarding the same.

7. Further, the learned Family Court has returned the following findings, which are very relevant: –

"20. It is also necessary to mention here that from the account statement of petitioner no.1 pertaining to Bank of Baroda, Gandhi Chowk, Sonipat for the period from 01.01.2019 to 31.12.2022, it is evident that there is deposit of Rs. 7, 15,405/- and during this period petitioner no.1 has withdrawn Rs. 6,87,215/- leaving the balance to the tune of Rs. 42,302/-. Petitioner no.1 wife is having another bank account bearing No. 0925000100142451 of Punjab National Bank, Rasoi, Sonipat, it is evident that she is having numerous entries of deposition of heavy amount in her account. Thus, it can be inferred that petitioner no.1 is having sufficient means. Be that as it may, it is worth to mention here that law is fairly settled

on the point that for the mere fact that a wife is earning, she cannot be denied maintenance from her husband as has been settled time and again and was also so held by the apex court in Reena Salkan vs. Sumer Salkan (2019) 12 SCC 303.

21. However, in the case in hand, the facts are quite different. Here both spouse are working and the income and assets disclosed by petitioner no.1 in her affidavit are sufficient for her to maintain good standard of life.”

8. It isn’t this above background that no maintenance was granted to the petitioner No.1/wife; whereas ₹5,000/- per month was granted to the petitioner No.2/minor child. I find no error whatsoever in the reasoning of the learner Family Court. Learned counsel for the petitioners has also been unable to controvert the above said findings returned by the learned Family Court.

9. As such, I find no ground is made out to interfere in the impugned order. The present petition is accordingly **dismissed**.

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

20.03.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No