

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-459-2024(O&M)

Date of order: 01.04.2024

Simita @ Simta

.....Petitioner(s)

Vs.

Rajender

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Abhinav Sood, Advocate
for the petitioner.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 06.02.2024 passed by learned Principal Judge, Family Court, Faridabad, whereby petition filed by the petitioner/wife under Section 125 Cr.P.C. has been dismissed.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the respondent on 18.06.2017. It is submitted that on 26.11.2017 the petitioner was turned out of the matrimonial home after being given beatings by the respondent. It is further submitted that the respondent is an able-bodied person working as POP mistri/contractor and his monthly income is Rs.50,000/-. On the other hand, the petitioner is a mere housewife and has no source of income. As such, dismissal of her petition under Section 125 Cr.P.C. vide impugned order dated 06.02.2024 cannot be sustained. It is accordingly 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 the petitioner was married to the respondent on 18.06.2017 in a village in District Rai Bareilly, Uttar Pradesh. No child was born out of this wedlock. Admittedly, they have been residing separately since 26.11.2017. In fact, the petitioner has admitted before the learned Family Court that she had stayed with the respondent in her matrimonial home for 7 days at the time of marriage; in the months of September and October, 2017, she stayed for 15 days; and in November, 2017, she had stayed only for 5 days; and after 26.11.2017, she has not stayed in the matrimonial home. Thus, admittedly, the parties have stayed together only for about five and a half months at best.
6. Furthermore, as per the record, the petitioner has deposed that she wants to stay with respondent only in Faridabad and nowhere else and that she cannot stay in Delhi where the respondent works. In this regard, relevant findings of the learned Family Court as contained in Para 18 of the impugned order are as under:-

“18.....To the contrary, it has come in petitioner’s statement that it is her condition in living with respondent that she will live with him only if he keeps her in Faridabad. She specifically deposed that she will not stay with him in Delhi, where he works.....The statement of petitioner shows that she is willing to stay in Faridabad because her parental house is in Faridabad. Respondent is doing his work in Delhi and obviously he would like to stay in Delhi for the convenience of doing his

job. The condition imposed by petitioner upon respondent that he should stay in Faridabad only, is not a reasonable cause/condition and therefore when she refused to stay with respondent, it becomes obvious that she has no reasonable cause in not staying with respondent...”.

7. From the above, it is clear that it is the petitioner who has refused to cohabit with the respondent. As such, as per the provision of Section 125 (4) Cr.P.C., the petitioner is not entitled to maintenance.
8. Moreover, it has also come on record that the petitioner as PW 1 has admitted in her cross-examination that *“she has some land which is in the name of her father who has died 8-9 years ago.”* Thus, it cannot be said that the petitioner is unable to maintain herself. On the other hand, although the respondent is an able-bodied man, however, he is only a daily wage labourer earning Rs.10,000/- to Rs.12,000/- per month.
9. In view of the above, I find no ground is made out to interfere in the impugned order dated 06.02.2024. Present petition accordingly stands **dismissed**.
10. Pending application(s) if any also stand(s) disposed of.

01.04.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No