

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

109

CRR-F-526-2024(O&M)

Date of order: 16.04.2024

Jaspreet Singh

.....Petitioner(s)

Vs.

Jaspreet Kaur & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sarabjit S. Khaira, Advocate
for the petitioner.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 15.01.2024 passed by learned Principal Judge, Family Court, Gurdaspur, whereby in a petition filed by the respondents under Section 125 Cr.P.C., the petitioner/husband has been directed to pay final maintenance of Rs.3,000/- per month to respondent No.1/wife and Rs.3,000/- per month to respondent No.2/minor son along with litigation expenses of Rs.2,000/-.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to respondent No.1 on 06.10.2013. Two sons were born out of their wedlock, one of whom is with the petitioner and the other son/respondent No.2 is in the custody of the mother/respondent No.1. Due to matrimonial differences the parties started living separately since May, 2020.Learned counsel clarifies that challenge in the present petition is only qua the maintenance granted to respondent No.1/wife and not in regard to maintenance granted to respondent No.2/minor son.

3. Learned counsel submits that no maintenance could have been granted to respondent No.1 as she is a Teacher and is earning handsomely from the said profession; whereas the petitioner is only an employee in a Paint and Sanitary shop from where he is earning Rs.10,000/- per month. It is argued that out of the said Rs.10,000/-, after giving maintenance to the respondents, the petitioner will be left with only Rs.4,000/-, which is not sufficient to meet his requirements and expenses. It is accordingly prayed that the impugned order be set aside qua respondent No.1.

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

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

6. Perusal of record of the case shows that respondent No.1 had come clean before the learned Family Court and at the very outset had disclosed that she was BA B.Ed. and Diploma in Art and Craft and that she was working as Art and Craft Teacher in a Senior Secondary School, from where she was drawing a salary of Rs.10,000/- per month. On the other hand, the petitioner has not been so forthcoming. Although, the petitioner has stated before this Court that he is an employee at a Paint and Sanitary shop, however, before the learned Family Court, it had firstly been pleaded on his behalf that he is unemployed and has no source of income. However, on the basis of the evidence brought on record, learned Family Court had found that petitioner was employed in the shop of M/s SS Building at Amritsar, which was owned by grandfather of the petitioner,

and from where he was admitted to be earning Rs.10,000/- per month. In this regard, learned Family Court has returned the following findings: -

“10. As far as the occupation of the respondent is concerned, although, the respondent has tried to evade his responsibility by saying that he is just doing the work in the shop of his grandfather for earning Rs. 10,000/- but he has neither examined his father or grandfather in support of his claim nor he has produced document of the shop of his grandfather. He has himself disclosed in his affidavit income, assets and liabilities that he is residing in a joint family and his grandfather Saroop Singh is running the shop under the name and style M/S S.S. Building at Amritsar. Thus, it is unbelievable that a person who is residing in a joint family with his father and grandfather who run a family business will get only a meager amount of Rs. 10,000/- per month by working in the joint business of the family. Moreover, in the cross-examination, he has admitted that he is doing his private work and when a suggestion was put to him in the cross-examination, he stated that he is running the shop of paint and sanitary, though, he denied the suggestion but volunteered to state that out of the two, one belongs to his grandfather but he cleverly kept silent about the other shop. He has admitted that it is the duty of the husband to provide maintenance to his wife and children. He is able bodied person and is presumed to earn enough to maintain his family. Thus, the applicants who are legally wedded wife and minor are entitled to maintenance from the respondent”.

7. The learned Family Court further relied upon judgment of the Hon’ble Supreme Court in **“Chaturbhuj Vs. Sitabhai” Law Finder Doc ID # 135040** wherein it has been held that merely because the wife is earning something does not imply that she is not entitled to maintenance;

and had granted maintenance of Rs.3,000/- per month to respondent No.1/wife.

8. From the above findings it emerges that the petitioner has not come clean regarding his income. However, the relationship between the parties is admitted, and it is also not denied that the petitioner is an able-bodied person. Moreover, keeping in view the ratio of the judgment relied upon by the learned Family Court that merely because the wife is earning something does not imply that she is not entitled to maintenance, I find no ground is made out to interfere in the impugned order. No judgment to the contrary has been shown by Id. counsel for the petitioner.

9. In view of the above, present petition stands **dismissed**.

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

16.04.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No