

CRR(F)-650-2023(O&M)

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252 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR(F)-650-2023 (O&M)

Date of decision: 13th March, 2024

Deep Bansal

...Petitioner(s)

Versus

Poonam Bansal

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nayandeep, Advocate for the petitioner.

Mr. J.S. Saneta, Advocate for the respondent.

MANISHA BATRA, J (ORAL):-

CRM-24567-2023

The present application has been filed for placing on record the affidavit filed by the petitioner regarding the payment of maintenance till date as Annexure P-16.

For the reasons mentioned in the application, the same is allowed. Annexure P-16 is ordered to be taken on record.

CRR(F)-650-2023

The present petition has been filed challenging the order dated 31.03.2023 passed by learned Additional Principal Judge, Family Court, Panipat in maintenance petition No. 569 of 2020 titled as 'Poonam Bansal

Vs. Deep Bansal' whereby the petitioner was directed to pay an amount of

₹15,000/- per month to respondent-wife.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned petition under Section 125 of Cr.P.C. has been filed by the respondent who is wife of the present petitioner on the grounds that she was married with him on 29.01.1991 according to Hindu rites and ceremonies. A female child was born to them on 06.01.1992. The relations between the parties had become strained as the petitioner did not take care of the respondent and their daughter. The petitioner was indulged in bad habits. He was short tempered and neglected them. The respondent had sent her daughter to her parents and she was residing there under their care and custody and all expenses of her daughter were borne by her parents. The petitioner had left her company and had started residing separately from her. The respondent lived at Panipat for some time for the purpose of finding some job and tried to maintain herself by working in a private firm. However, since February, 2016, she had been residing with her parents who are old aged. While alleging that the respondent was having no source of income and was totally dependent upon her parents for herself as well as her daughter whereas the present petitioner was running a gym and was also involved in the business of sale and purchase of properties and his monthly income was not less than ₹50,000/-, she prayed for directing him to pay maintenance to her.

3. The present petitioner had been given opportunity to file reply wherein it was alleged by him that the respondent had left his company in

the year 2010 at her own. She was residing in her parental house and had sufficient income to maintain herself as she was giving tuitions and was also doing a private job whereas his gym had been closed in April, 2015 and he had no source of income.

4. After apprising the evidence produced on record and considering the contentions raised by both the parties, learned Family Court vide impugned order directed the present petitioner to pay an amount of ₹15,000/- per month to his wife as discussed above.

5. It is argued by learned counsel for the petitioner that the impugned order as passed by learned Family Court is not sustainable in the eyes of law as while passing the same, the learned Family Court failed to take into consideration the fact that the petitioner had no capacity to pay an amount of ₹15,000/- per month to the respondent-wife. His monthly income was only ₹16,000/- per month and it was well proved on record. However, learned Family Court wrongly observed that it was not believable that the petitioner who was running a gym and during the assessment year 2015-16 whose business income was reflected to be ₹2,68,140/-, would have shut down his business. It is submitted that the learned Family Court also erred to hold that the petitioner was receiving rental income of ₹18,000/- per month each from the shops which were owned by him by ignoring that the rent receipts as produced in evidence by him proved his rental income qua two shops was to be at the rate of ₹3,000/- per month each only. He has further argued that a cryptic order has been passed and therefore, it is urged that the

impugned order is liable to be set aside.

6. I have heard learned counsel for the petitioner at considerable length and have gone through the contents of the impugned order which has been challenged before this Court.

7. Admittedly, the relationship of husband and wife still exists between the parties, but the respondent is staying separately from the petitioner since long. Though the petitioner has alleged that the respondent has left his company at her own but the petitioner has not brought any material on record to show that he had made any efforts to rehabilitate the respondent and his daughter with him at any point of time. It is well settled proposition of law that it is moral as well as legal obligation of a husband to maintain his wife and she is entitled to maintain a standard of living which is neither luxurious nor penurious and is also entitled to lead a decent life yet at par with the dignity and the status of the husband and keeping in view the commitment of the food, shelter and medical treatment etc. of his wife. In the instant case, the petitioner claimed before the learned Family Court that he was earning an amount of ₹16,000/- per month only as previously, he was owning three shops but he had left one shop in the year 2017 and rent amount had been reduced to ₹16,000/- per month only and had no other source of income. He also claimed that he had shut down the gym in the month of April, 2015. The respondent had summoned PW-3 Vikas Jain, who was occupying three shops owned by the present petitioner. This witness deposed that he had previously taken three shops on rent from the petitioner

at the rate of ₹20,000/- per month but later on one of the shop was vacated/left by him and the rent amount was reduced to ₹16,000/-. The learned Family Court had disbelieved the version of the petitioner with regard to his monthly income being ₹ 16,000/- per month only, keeping in view the fact that in the ITR of year 2015-16 which had been produced by the petitioner on record, his annual income was shown as ₹ 2,16,000/- which meant that the shops were rented out for much amount than shown. These shops are shown to be located in an area which is commercial and it cannot be assumed that the same were fetching rent only ₹3,000/- per month. The petitioner also failed to explain as to how he was able to survive on a meager income of ₹16,000/-. In my opinion, the learned Family Court rightly observed that it was common trend in business community not to reflect actual income including rental income for the purpose of evasion of tax. The petitioner has placed on record Annexures P-3 to P-6 copies of his income tax returns from the year 2017-18, 2019-20 and 2020-21 showing his annual income to be around ₹1,50,000/- and even lesser than that. However, keeping in view the fact that he owned shops in a prime location and has rented out all these shops, it cannot be assumed that his monthly/annual income was the same as claimed by him in the Income Tax Returns. The learned trial Court after taking all these factors into consideration had rightly him the petitioner liable to pay maintenance to the tune of ₹15,000/- per month to respondent-wife. In view of the discussion as made above, I am of the considered opinion that the order passed by learned Family Court is not

liable to be interfered with and the amount of maintenance as directed to be paid by him cannot be stated to be excessive rather, it is neither penurious nor luxurious and is just proper for meeting with her day to day requirements of food, lodging etc. Accordingly, finding no merits, the petition is dismissed.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

13th March, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No