

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Criminal Revision No. 2242 of 2012 (O&M)
Date of Decision: 09.01.2024**

Dilbag Singh

..... Petitioner

Versus

Poonam and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Himanshu Garg, Advocate as *Amicus Curiae*
for the petitioner.

Ms. Monika Khatri, Advocate for
Mr. Vivek Khatri, Advocate
for the respondents.

HARKESH MANUJA, J.

By way of present revision petition, challenge has been made to the order dated 01.06.2012 passed by learned Additional District Judge, Family Court, Hisar (**hereinafter to be referred as “Family Court”**), whereby the application of respondents, under Section 125 Cr.P.C. seeking maintenance allowance from the petitioner-husband, was allowed.

[2] Brief facts of the case are that the marriage of petitioner and respondent No. 1-Poonam was solemnized on 30.04.2006 at HUDA Colony, Hisar and out of their wedlock, a baby boy, namely, Hiten (respondent No. 2) was born on 07.06.2008. Due to temperamental differences, a dispute arose between the parties and the respondent-wife left the matrimonial home, which resulted into filing of Petition No. 707-3 of 2009, dated 04.07.2009 under Section 125 Cr.P.C. Thereafter, on 29.07.2009, the petitioner-husband instituted petition under Section 9 of

the Hindu Marriage Act seeking restitution of conjugal rights, wherein the respondent-wife made a statement that she does not want to join the company of petitioner and the said petition was ordered to be dismissed as withdrawn vide order dated 18.09.2009 passed by learned Additional District Judge, Kaithal.

On 29.09.2009, petitioner-husband filed a petition under Section 13 of the Hindu Marriage Act, 1955 seeking a decree of divorce by way of dissolution of marriage. Upon notice, respondent-wife appeared and filed written statement denying the allegations contained in the said petition; however, later on, chose not to contest the case further and ultimately on 20.12.2011, respondent-wife was proceeded *ex parte*. The said petition was allowed vide order dated 04.01.2012 passed by learned District Judge, Kaithal and decree of divorce under Section 13 of the Hindu Marriage Act was granted in favour of the petitioner dissolving the marriage between the parties on the ground of cruelty.

In the petition seeking interim maintenance, learned Family Court vide order dated 22.11.2010 ordered for payment of interim allowance @ Rs. 2500/- per month to respondent-wife from the date of filing of the petition and finally vide order dated 01.06.2012 granted her maintenance at the rate of Rs. 4000/- per month to respondent-wife and Rs. 2000/- per month to respondent No. 2 (son). Hence, the present petition.

[3] Learned counsel for the petitioner submits that the learned Family Court below did not consider the fact that the petitioner was not having any regular source of income and his nomination as agent of LIC was cancelled as per Annexure P-1. He further submits that learned

Family Court did not consider the decision dated 18.09.2009 passed by learned Additional District Judge, Kaithal, in the petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, filed at the instance of petitioner-husband, whereby respondent-wife made a statement that she does not want to join the company of the petitioner. Moreover, learned Family Court had not considered the judgment dated 04.01.2012 (Annexure P-3), whereby the petition under Section 13 of the Hindu Marriage Act filed at the instance of petitioner-husband, was decreed in favour of petitioner.

[4] On the other hand, learned counsel for the respondents opposes the prayer made in the petition, while submitting that it is the moral duty of the petitioner to maintain their minor son and respondent-wife unless she remarry. The petitioner was earning handsome amount and he intentionally concealed the real income in order to maintain them; thus prayer is for dismissal of the present petition.

[5] I have learned counsel for the parties and gone through the paper-book and unable to find substance made on behalf of the petitioner.

[6] This Court vide order dated 31.03.2013 directed the petitioner to pay the amount of maintenance to the minor child and half of the amount of maintenance awarded to the respondent-wife and thereafter, the petition was admitted vide order dated 11.04.2013, while staying the half of amount of the maintenance awarded to the wife by the Family Court.

[7] It is settled principle of law that petitioner has moral obligation to maintain respondents (minor son & wife) and the wife is entitled to lead her life as per status of her husband. It is also settled principle of law that the maintenance cannot be granted for undue

enrichment of the wife. The maintenance is meant to prevent destitution and vagrancies of the wife.

[8] Respondent No. 1 and her minor son have been granted maintenance to the tune of Rs. 6,000/- (Rs.4000+2000) only. By grant of such maintenance, the respondents would not get any undue enrichment in any manner, rather they would only be able to get their ends meet and feel secured to some extent. The said assessment has been done on the basis of evidence available on record, in the shape of earning sheets relating to the petitioner, pertaining to the year 2008 to 2011; proved as Exhibits P-7 to P-9 by PW-2 (Sh. J.C. Bhakhatia, Assistant Branch Manager, LIC, Kaithal), besides the jamabandi for the year 2006-2007, as per which, the petitioner owned land measuring three acres.

[9] For the reasons recorded hereinabove, no ground is made out to interference in the well reasoned order dated 01.06.2012 passed by learned Family Court, there being no illegality or perversity with the discretion exercised therein.

[10] Accordingly, the present revision petition stands **dismissed**.

[11] Pending miscellaneous application(s), if any, shall also stand disposed off.

January 09, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No