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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-25881-2024 (O&M)  
Date of decision: 23.05.2024

Ajay Kumar Luthra

... Petitioner

Vs.

Manju Gulati and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Santosh Miglani, Advocate  
for the petitioner.

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HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking modification of the impugned order dated 04.04.2024 passed by learned Sub Division Judicial Magistrate, Dera Bassi, in case bearing No.MNT/287/2021 titled as '*Manju Gulati and another Vs. Ajay Kumar Luthra*', vide which a direction has been issued to the petitioner to pay Rs.1.00 lac to the respondents towards arrears of maintenance till the next date of hearing fixed before learned Family Court i.e. 18.07.2024, failing which conditional warrants will be issued.
2. Learned counsel for the petitioner, *inter alia*, contends that marriage between the petitioner and respondent No.1 was solemnized on



24.10.2012 according to Hindu rites and rituals and out of this wedlock, one male child namely Kanish was born. However, the matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance of Rs.50,000/- per month along with litigation expenses to the tune of Rs.22,000/-. The petitioner filed a reply and contested the claim made by the respondents. The learned Family Court, vide order dated 14.12.2023, granted interim maintenance allowance of Rs.15,000/- per month in favour of the respondents i.e. Rs.10,000/- per month in favour of respondent No.1 and Rs.5,000/- per month in favour of respondent No.2. Thereafter, the petitioner approached this Court by way of filing CRR(F)-457-2024 for setting aside the order dated 14.12.2023, which stands dismissed vide order dated 01.04.2024. Learned Family Court, vide order dated 04.04.2024, directed the petitioner to pay Rs.1.00 lac to the respondents towards arrears of maintenance till the next date of hearing fixed before learned Family Court i.e. 18.07.2024, failing which conditional warrants will be issued. Aggrieved by the same, the petitioner has approached this Court for modification in the impugned order, by filing the present petition.

3. Having heard learned counsel for the petitioner and after perusing the record of the case with her able assistance, this Court finds no ground to modify the impugned order.

4. The object and purpose behind granting maintenance is to ensure that the dependent spouse is not reduced to destitution or vagrancy on



account of failure of marriage. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon to punish the other spouse. The Courts are required to conduct the maintenance proceedings, while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. The provisions of Section 125 Cr.P.C. were enacted as a measure to further social justice and protect dependent women, children and parents, which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

5. A three-Judge Bench of the Hon'ble Supreme Court in ***Vimala (K.) Vs. Veeraswamy (K.) (1991) 2 SCC 375***, speaking through Justice Fatima Beevi, opined as follows:

*“3. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife.”*

6. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Kirtikant D. Vadodaria Vs. State of Gujarat (1996) 4 SCC 479***, speaking through Justice Faizan Uddin, opined as follows:

*“15.... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support*



*those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”*

7. Another objective the legislature has sought to achieve by this provision is to provide maintenance *pendente lite* to the applicant spouse during proceedings emerging out of matrimonial disputes so that she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and not suffer at the instance of the affluent spouse.

8. There is a general tendency on the part of the wife to amplify her needs and the husband to conceal his actual income, making it difficult to determine the earning capacity of the rival claimants with exactitude. The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at quantum of maintenance which is just and fair in terms of principle of equistatus. The quantum of maintenance must be justifiable and realistic to provide succour to the dependent spouse and also to avoid occurrence of the two extremes of the maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury. The adequacy of the maintenance allowance has to be determined by the yardstick of the dependent spouse being able to lead a life of reasonable comfort.



9. For ready reference, the impugned order dated 04.04.2024 passed by learned Family Court reads as under: -

*“Respondent has appeared and vide his separate statement stated that out of the arrears of maintenance, I will try to make the payment to the tune of Rs.1 lac till the next date of hearing failing which if the conditional warrants would be issued against him, he will have no objection.*

*At the same time, petitioner vide her separate statement stated that she has no objection if time will be granted to the respondent for making part payment qua the arrears of maintenance till the next date of hearing.*

*In view of the statements so suffered by both the parties, present case stands adjourned to 18.07.2024 for making payment by the respondent as well as for leading entire evidence of petitioner.*

*Long adjournment has been given as the undersigned has to hold Camp Court on every Wednesday and Thursday of each week and as the summer vacations will be commencing in the month of June.”*

10. A perusal of the impugned order indicates that the same has been passed on the statement made by the petitioner himself and as such, no interference is warranted at the hands of this Court.

11. Keeping in view the facts and circumstances of the case and also in view of the settled law pronounced by the Hon’ble Supreme Court, this Court finds no ground to modify the impugned order. Accordingly, the present petition is dismissed.

23.05.2024  
vishnu

[ HARPREET SINGH BRAR ]  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No