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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR (F) No.731 of 2024 (O&M)
Date of Decision: 23.05.2024

Amit Jindal ... Petitioner

Versus

Kajal and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rahul Vohra, Advocate,
for the petitioner.

MANISHA BATRA, J.

1. The instant revision petition has been filed by the petitioner against the order dated 08.04.2024 as passed in Petition bearing No.MNT-13 of 2021 titled as *Kajal and others v. Amit Jindal* by the Court of learned Additional Principal Judge, Family Court, (Camp Court), Malerkotla whereby an application for grant of interim maintenance as filed by the petitioners therein, had been allowed and they were directed to be paid an amount of Rs.2500/- per month and Rs.1500/- per month each respectively.
2. For the sake of continuity and coherence, parties shall be referred to hereinafter as per the same nomenclature as given before the learned Family Court.
3. Brief facts of the case relevant for the purpose of disposal of the present petition are that the petitioner No.1 who is wife of the

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respondent had filed the aforementioned petition under Section 125 of Cr.P.C. on the grounds that she was married with the respondent on 17.10.2010. The minor petitioners were born out of their wedlock. She was subjected to harassment and cruelty by the respondent on account of demand of dowry and was thrown out of her matrimonial house on 25.12.2018 along with her minor children. While submitting that she was unable to maintain herself as well as her minor children having no source of income and had been neglected and refused to be maintained by the respondent who was earning a sum of Rs.50,000/- per month, she prayed for grant of maintenance to herself and her children.

4. Along with the main petition, an application had also been filed by the petitioners seeking interim maintenance during the pendency of the trial. The respondent appeared in response to the notice of the application and filed reply resisting the claim of the petitioners and alleging that the petitioner No.1 had herself refused to join his company. She was a working lady and was earning a sum of Rs.30,000/- per month and was fully capable of maintaining herself and her children. The learned Family Court vide order dated 08.04.2024, directed the respondent to pay an amount of Rs.2500/- per month to the petitioner No.1 and Rs.1500/- per month each to petitioners No.2 and 3 during the pendency of the petition.

5. Feeling aggrieved by the impugned order, the instant petition had been filed by the revision petitioner-respondent.

6. Learned counsel for the respondent has argued that the impugned order is not sustainable in the eyes of law as it was the petitioner No.1 who left her matrimonial house on 25.12.2018 at her own without any

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reasonable cause and all the efforts made by the respondent to bring her back have proved futile. He has even filed a petition under Section 9 of Hindu Marriage Act, 1955 (For short "HMA"), which is pending. The respondent was previously working as a broker/agent for sale/purchase in business of iron scrap. He was earning a sum of Rs.10,000/- per month. However, he does not have any source of income now as he resides at his home to take care of his ailing father. The petitioner No.1 had also filed a petition under Section 13 of HMA against him and maintenance pendente lite to the tune of Rs.2500/- per month was directed to be paid by him to her on an application filed under Section 24 of HMA by the petitioner-wife vide order dated 13.01.2023 which he had been regularly paying. That apart, the petitioner-wife was working as a teacher in SVM School, Malerkotla and was earning a sum of Rs.20,000/- per month. She was also a co-sharer in the immoveable property belonging to her father and in this manner, she was fully capable of maintaining herself. It is also argued that the respondent is still ready to maintain the petitioners and, therefore, it is argued that the impugned order is liable to set aside.

7. I have heard learned counsel for the respondent (petitioner in this revision petition) at considerable length and have gone through the record carefully.

8. On a perusal of the impugned order, it is clear that there is no dispute between the parties that the petitioner No.1 is legally wedded wife of the respondent who is petitioner in this petition and the petitioners No.2 and 3 are his minor children. It is also not in dispute that the petitioners are living separately from the respondent since December 2018. Though it has

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been claimed by the respondent that he had always remained willing to maintain the petitioners and had not neglected and refused to do so and that he has even filed a petition under Section 9 of the HMA for seeking restitution of conjugal rights against the petitioner No.1, however, no sincere or genuine efforts appear to have been made by the respondent in this regard. Therefore, at this stage, it is to be presumed that he has neglected and refused to maintain the petitioners. With regard to the income of the parties, the petitioners No.2 and 3 being minor children are obviously unable to maintain themselves. Though it has come on record that the petitioner No.1 is serving as a teacher and is fetching an amount of Rs.13,000/- per month, however, only due to that reason, she cannot be denied maintenance from her husband as both the minors are staying with her. She is not only spending time and making efforts for upbringing of the children but is also taking care of their studies. No value can be put to the time spent and efforts made by her in upbringing of her children. Though the respondent has claimed that he is not earning any money as he is sitting at home and taking care of his ailing father, however, by saying so he cannot be absolved of his duty to pay maintenance to the petitioners. He is an able bodied young person. A perusal of income tax returns pertaining to the year 2018-19 to 2020-21 itself reveals that in the previous years, he was showing his annual income at the rate of more than Rs.3 lacs but after initiation of litigation by his wife, he has shown it to be reduced to less than half. No explanation has come forward in this regard. The amount of maintenance which has been directed to be paid by him to the petitioners cannot be stated to be excessive.

It is the moral as well as legal obligation of the respondent-husband to

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maintain his wife and children. It is well settled that a wife 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 status of the husband and keeping in view the commitment of the respondent to meet the needs and requirements of food, shelter and medical treatment etc. of his wife as well as his children.

9. Keeping in view the facts and circumstances of the case, I am of the considered opinion that the learned Family Court had rightly directed the respondent to pay an amount of Rs.2500/- per month to the petitioner No.1-wife and Rs.1500/- per month each to petitioners No.2 and 3 who are school going and this amount cannot be stated to be excessive or inconsistent with the status of the respondent and is bare minimum and commensurate with the day to day requirement of studies and medical expenses etc. of the minor petitioners also. It is well settled that order granting maintenance to wife and children should not be lightly interfered with unless any illegality or manifest injustice is made out. No such illegality is, however, made out in this case in the impugned order. Therefore, I find no reason to interfere with the same. Accordingly, affirming the findings as given by learned Family Court, the revision petition is dismissed.

10. So far as the plea as taken by the respondent that he is also paying an amount of Rs.2500/- to the petitioner No.1 wife in proceedings under Section 24 of HMA is concerned, it is clarified that if the Family Court finds it that such amount is still being paid by the respondent to the petitioner No.1 wife then he shall certainly be entitled to set off/get adjusted the same against the amount of maintenance to be paid by him in the petition

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filed under Section 125 Cr.P.C.

11. Miscellaneous application(s), if any, also stand disposed of.

23.05.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No