

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-7946-2024 IN/AND
CRR(F)-259-2024 (O&M)
Reserved on: 12.03.2024
Date of Decision:- 20.03.2024

NEHA AND ANOTHER

.....Petitioners

Vs.

DR. DHIRAJ BHANDARI

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. Sumit Guleria and Mr. Bir Singh Pathania, Advocates,
for the applicants-petitioners.

HARPREET KAUR JEEWAN, J.

CRM-7946-2024

1. By this application, the applicants-petitioners seek condonation of delay of 263 days in filing the present Criminal Revision Petition.

2. In view of the averments made in the application, which is duly supported by an affidavit of applicant-petitioner No. 1, the application is allowed and the delay of 263 days in filing the present petition is hereby condoned.

CRR(F)-259-2024

1. Petitioners (the wife and the minor daughter of the respondent) have filed the present Criminal Revision Petition impugning the order dated 07.02.2023, passed by learned Principal Judge, Family Court, District

Ludhiana, seeking enhancement of the maintenance awarded @ ₹5,000/- per month to petitioner No. 1 (wife) and @ ₹8,000/- per month to petitioner No. 2 (minor child), in a petition filed by the petitioners under Section 125 of the Code of Criminal Procedure, 1973 (for short '*the Code*').

2. Learned counsel for the petitioners *inter alia* contends that that the respondent is highly qualified and he is BDS with post-graduation degree from England. He was working as Dental Doctor in Army (ECHS Pathankot) on contract basis and he is also having a private dental clinic. His monthly income is more than ₹1,00,000/- apart from the rental income of about ₹12,000/- per month which he is earning from the shops situated at Bank Colony Dhangu Road Pathankot. The marriage of petitioner No. 1 and the respondent was solemnized on 07.09.2013. Out of the said wedlock, a male child was born on 16.06.2015. Thereafter, petitioners had to leave the matrimonial home on 29.10.2015. Though petitioner No. 1 is working as a Clerk in the PSPCL and her net carry home salary is about ₹49,632/- per month but the respondent is the man of means and he is not maintaining the petitioners and only a meager amount, i.e. ₹5,000/- per month to petitioner No. 1 and ₹8,000/- per month to petitioner No. 2 as an interim maintenance during the pendency of the petition has been awarded by the learned Family Court.

3. It is further contended that there is huge outstanding against the respondent and he has only paid a sum of ₹50,000/- out of the arrears.

4. I have considered the aforesaid contentions.

5. Keeping in view the facts and circumstances of the case, issuance of notice to the respondent is dispensed with.

6. As per the pleadings of the petitioner which are noted in the impugned order, the marriage of petitioner No. 1 and the respondent was solemnized on 07.09.2013. Out of the said wedlock, petitioner No. 2 (minor child) was born on 16.06.2015. It is alleged by petitioner No. 1 that she had to leave her matrimonial home on 29.10.2015 due to the matrimonial disputes and she filed a petition under Section 125 of the Code before the learned Family Court on 15.09.2017. The dispute between the parties started only on account of the refusal by petitioner No. 1 for handing over her monthly salary to the father of the respondent. Since 29.10.2015, petitioner No. 1 along with her minor child is residing with her parents at Ludhiana. Petitioner No. 1 has alleged physical assault from the hands of the respondent and she has alleged that her medical examination was conducted on 09.11.2013. However, subsequent in October 2014 when the respondent came to know that petitioner No. 1 was pregnant, she was forcibly sent to her parents' home at Ludhiana.

7. It is further the contention of the petitioners that petitioner No. 2 is studying in Maple Bear Nursery School and all the expenses regarding his food, education and medical needs are being borne by petitioner No. 1 whereas the respondent is earning handsome amount of ₹1,30,000/- per month apart from the rental income and he has refused to main the petitioners.

8. The petition was contested by the respondent by way of filing a written statement wherein the respondent has admitted the relationship between petitioner No. 1 and the respondent. The birth of the male child on 16.06.2015 is also admitted. The respondent has denied the income as

₹1,30,000/- per month and he has also denied the rental income of ₹12,000/- as alleged by the petitioners.

9. Both the parties led their respective evidence and thereafter, the Family Court considered the pleadings and evidence of the parties petitioners and directed the respondents to pay a sum of ₹5,000/- per month to petitioner No. 1 and ₹8,000/- to petitioner No. 2.

10. The relationship between the parties is not disputed. This fact is also not disputed that respondent No. 2 who is the minor child of petitioner and respondent No. 1 is presently in the custody of his mother (petitioner No. 1) and she is bearing all expenses of the minor child. Apart from the other allegations of the cruelty, it has been pleaded by petitioner No. 1 that the dispute between the parties took place only on account of refusal by petitioner No. 1 for handing over monthly salary to the father of the respondent. It is further pleaded by petitioner No. 1 that when petitioner No. 1 refused to give the salary, her father-in-law along with Dhiraj Bhandari (the respondent) had beaten her up upon which she screamed loudly that the death is better than this type of life which she is living.

11. It is further pleaded that the respondent forced petitioner No. 1 to right and sign the suicide note. It is further pleaded by the petitioner that a maid was deputed to keep an eye on her and there are also allegations of assault regarding which MLR of petitioner No. 1 was conducted on 09.11.2023. There are also allegations that even thereafter, the respondent had been treating the petitioner with cruelty and ultimately, the petitioner along with her minor child were sent to her parents' home at Ludhiana. Since 29.10.2015, both the petitioners are residing with the parents of

petitioner No. 1 in Ludhiana. In the written statement, the respondent has taken a plea that petitioner No. 1 was under pressure to solemnize the marriage and petitioner No. 1 wanted him to live in her parental house as ‘Gher Jamai’ because she did not like Pathankot.

12. It is further pleaded that the respondent made best efforts to convince petitioner No. 1 that he cannot leave his parents. It is admitted by both the parties that petitioner No. 1 is now working in Ludhiana in PSPCL and she is not residing with the respondent at Pathankot. There is no plausible evidence on record to show that petitioner No. 1 is residing there on account of her posting/work place and not on account of dispute between the parties.

13. So far as the income of petitioner No. 1 and respondent is concerned, the Family Court relied upon the testimony of RW-2 Mandeep Singh, who produced the record of employment of petitioner No. 1 in PSPCL and proved that the net salary of petitioner No. 1 was ₹55,782/-. Regarding the annual income of the respondent, the Family Court, relied upon the income tax returns of the respondent and made the following observations:-

“.....Now, this Court proceeds further to peruse the income tax returns of the respondent, i.e. Ex. P-40 to Ex. P-43 and it shows that his gross income for the assessment year 2017-18 is ₹3,73,689/-, for the assessment year 2018-19 is ₹4,16,997/-, for the assessment year 2019-20 is ₹5,06,676/-, and for the assessment year 2021-22 is Rs. 3,54,580/-.....”

14. Taking the average, the Family Court concluded the annual income of the respondent as ₹4,00,00/- and monthly income approximately

₹35,000/- per month.

15. The relationship between the parties is not disputed. It is not disputed that petitioner No. 1 is working and her net salary is ₹55,782/- per month. So far as the observations of the Family Court holding the income of the respondent as ₹35,000/- per month is concerned, the petitioners could not refute the said observations by referring any other documentary proof on record regarding the income of the respondent-husband. The prayer in the present petition is only for enhancement. In the absence of any documentary proof regarding the income of the respondent, more than ₹35,000/- per month which has been held by the Family Court, I am of the considered opinion that no other view can be taken by this Court than the view which has been taken by the Family Court. The order is well reasoned and based upon appreciation of the oral, as well as documentary evidence. No such evidence has been pointed out which has been ignored or overlooked by the Family Court. As such, no ground for interference by way of present Criminal Revision Petition is made out.

16. Keeping in view the aforesaid circumstances of the present case and in view of the ratio of the judgment of Hon'ble the Apex Court passed in "Jagannath Choudhary vs. Ramayan Singh"; 2002(2) R.C.R. (Criminal) 813, the present petition stands dismissed.

17. Pending miscellaneous applications, if any, also stand disposed of.

March 20, 2024
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking

Yes/No

Whether Reportable

Yes/No