



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR (F) No.741 of 2024 (O&M)
Date of Decision: 27.05.2024

Sonu ... Petitioner

Versus

Jyoti and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manjeet Saini, Advocate,
for the applicant-petitioner.

MANISHA BATRA, J.(Oral)

CRM-23291-2024

This is an application for condonation of delay of 215 days
in filing the present petition.

For the reasons mentioned in the application, the same is
allowed and the delay of 215 days in filing the present petition is
condoned.

Main Case

1. The instant petition has been filed by the petitioner
challenging the order dated 28.07.2023 passed by learned Additional
Principal Judge, Family Court, Panipat in Maintenance Petition bearing
CIS No.MNT-421-2021 titled as Smt. Jyoti and another v. Sonu, filed
under Section 125 of Cr.P.C., whereby, the present petitioner had been
directed to pay maintenance @ Rs.3500/- per month to present

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respondent No.1-his wife and Rs.1,000/- per month to present respondent No.2-his minor child.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the respondent No.1 filed the aforementioned petition for herself as well as on behalf of her minor son on the averments that she got married with the present petitioner on 25.07.2015. She was subjected to cruelty and harassment by the petitioner and his family members for bringing insufficient dowry. Demand of a sum of Rs.1 lac was raised from her. On account of inability of her family members and herself to fulfill this demand, she was thrown out of her matrimonial house ultimately on 21.08.2021 and eversince then she was living with her minor child at her parental home. While submitting that the petitioner was earning a sum of Rs.50,000/- per month by working as a property dealer and from other resources, the respondents prayed for grant of maintenance @Rs.30,000/- per month.

3. The present petitioner who was the respondent in the petition filed by the respondents was duly served with notice of the same but did not appear to contest the petition before the learned Family Court and, therefore, he was proceeded against ex parte vide order dated 08.02.2022.

4. In ex parte evidence, the present respondent No.1 examined herself and one more witness. After considering the evidence produced on record, the learned Family Court vide the impugned order dated 28.07.2023 directed the petitioner to pay maintenance of the amounts as mentioned above.

5. It is argued by learned counsel for the petitioner that the

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impugned order is not sustainable in the eyes of law and as it was passed on the basis of conjectures and surmises and by ignoring the fact that the petitioner was ready and willing to keep the respondents and had not neglected and refused to maintain them at any point. It is submitted that it was the respondent No.1 who was not interested to stay at her matrimonial house and had left the same without any reasonable cause. It is submitted that the learned Family Court also ignored the fact that respondent No.1 was herself gainfully employed at Panipat and was getting salary and further while admitting that he was a property dealer, it is urged that the petition under Section 125 of Cr.P.C. had been filed by the respondent No.1 only to harass her at the behest of her parents, learned counsel has argued that the impugned order is liable to be set aside.

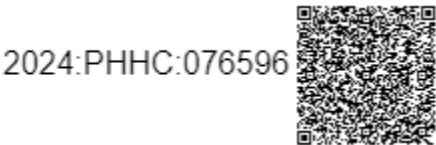
6. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.

7. On going through the observations as made by learned Family Court in the impugned order and after giving due deliberations to the contention as raised by learned counsel for the petitioner, it emerges that there is no dispute by the present petitioner about the fact that the respondent No.1 is his legally wedded wife and respondent No.2 is his minor son. It is also not disputed by him that they are living separately with the parents of the respondent No.1. Though it is submitted that respondent No.1 is working somewhere but neither exact details of her employment nor the details of her salary have been given in the petition. It has also not been denied by the petitioner that he is property dealer by profession. No reason whatsoever has been given by the petitioner for his non-appearance before the Family Court.

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Strangely, the order dated 08.02.2022 whereby he was proceeded against ex parte before the learned Family Court has not even sought to be challenged in this petition or by filing any other petition. The impugned order was also passed ex parte against the present petitioner but no explanation has been rendered for his non-appearance. The evidence before the Family Court had gone un rebutted and unchallenged and, therefore, the learned Family Court had obviously no reason to disbelieve the same. More so, the admission made by the petitioner himself that he is a property dealer by profession has further strengthen the plea taken by the respondents with regard to his profession. No doubt, the details of exact income of the present petitioner could not given by the respondents before the learned Family Court, however, the amount of Rs.3500/- per month and Rs.1000/- per month respectively which is ordered to be paid to the respondents cannot be stated to be excessive or exorbitant amount, rather the same is just and reasonable. It has also been well settled that the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that the wife left the matrimonial house at her own ipso facto does not absolve him of his moral duty to maintain his wife, if he is able bodied. It is also well settled proposition of law that the maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded



to the wife should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meager that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife and the child are able to maintain themselves with reasonable comfort. Reliance in this regard can also be placed upon **Manish Jain vs. Akanksha Jain**, (2017) 15 SCC 801, wherein Hon’ble Supreme Court had observed so.

8. 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 petitioner to pay an amount of Rs.3500/- per month to the respondent wife and Rs.1000/- per month to his son and this amount cannot be stated to be excessive or inconsistent with the status of the petitioner and is bare minimum and commensurate with the day to day requirement of studies and medical expenses etc. of the minor respondent also. It is well settled that order granting maintenance to wife and child 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.

27.05.2024
manju

(MANISHA BATRA)
JUDGE

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