

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

259

CRR (F) No.139 of 2017
Date of decision: 16.02.2024

Rajwinder Kaur

... Petitioner

Vs.

Harwinder Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Parminder Singh, Advocate,
for the petitioner.

Respondent proceeded against ex parte.

MANISHA BATRA, J.

1. The instant revision petition has been filed by the petitioner challenging the order dated 23.03.2016 as passed by learned District Judge (Family Court), Ambala in Maintenance Petition No.18 of 2015 titled as *Rajwinder Kaur v. Harwinder Singh*, whereby the respondent who is her husband was directed to make payment of an amount of Rs.2500/- per month to her by way of final maintenance in petition filed under Section 125 of Cr.P.C. by her.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned petition under Section 125 of Cr.P.C. had been filed by the petitioner alleging therein that she got married with the respondent on 11.12.2007 according to Hindu rites and ceremonies. A huge amount of money was spent by her parents at the

time of marriage. However, the respondent and his sister were not satisfied with the dowry so given at the time of marriage and they started taunting her for bringing insufficient dowry. She alleged that the respondent was indulged into the vices of consuming liquor. He along with his family members had been taunting her and raising demand of car and air conditioner etc. He even compelled her to ask her father to pay an amount of Rs.5 lacs for purchasing a tractor. When the petitioner expressed inability of her father to meet with these demands, then he used to get irritated and extend beatings to her. She had become pregnant but due to the maltreatment given at the hands of the respondent and his family members, she suffered a miscarriage and thereafter the behaviour of the respondent and his family members had even worsened. She alleged that all her ornaments were sold by the respondent and ultimately she was thrown out of her matrimonial house on 26.05.2013. She made prayer for directing the respondent to give maintenance to her by pleading that she had been neglected and refused to be maintained by him and she herself was unable to maintain herself, having no source of income. It was also claimed by her that the respondent had been working as a property dealer and owned agricultural land of six acres and was deriving sufficient income from the same.

3. The respondent filed reply to the petition vehemently contesting the claim of the petitioner and alleging that he had never neglected and refused to maintain the petitioner, rather it was her own behaviour which was cruel towards him. With regard to his income, it was

denied that he was a property dealer but asserted that he was a poor farmer. Therefore, he prayed for dismissal of the petition.

4. Both the parties were given opportunity to lead evidence by the learned District Judge (Family Court), Ambala and thereafter, vide order dated 23.03.2016, the concerned Court while holding that the income of the respondent was around Rs.10,000/- to Rs.12,000/- per month, directed him to pay maintenance to the tune of Rs.2500/- per month to the petitioner. The petitioner is hereby seeking modification in the impugned order dated 23.03.2016 by submitting that the amount so directed to be paid by the respondent to her is meager and is not at all sufficient to meet with even her basic and day to day necessities. The same is also not commensurate with the income of the respondent.

5. Learned counsel for the petitioner has argued that the respondent owned agricultural land and has been doing business of property dealing but this fact had been ignored by learned Family Court. Therefore, it is argued that the impugned order is liable to be modified, the amount of maintenance which is inadequate deserves to be enhanced and the petitioner deserves to get maintenance to the tune of Rs.50,000- per month at least.

6. It will not be out of place to mention here that the respondent had been duly served with the notice of this petition and had initially put in appearance through counsel but subsequently absented himself and had been proceeded against ex parte by this Court.

7. I have heard learned counsel for the petitioner at considerable

length and have gone through the trial Court record carefully.

8. In her sworn deposition, the respondent is shown to have admitted that previously at the time of his marriage, he owned eight acres of land and now he was having five and half acres of land which he used to cultivate. Though he denied that he also used to do property dealing work but at the same time, it was admitted by him that the crop grown by him over his land used to yield money in six months to the tune of Rs.40,000/- to Rs.45,000/-. The parties are living separately since 26.05.2013. Though the respondent claimed that he had not neglected and refused to maintain the petitioner and it was she, who had left her matrimonial house at her own. However, there is nothing on record to suggest that he ever tried or made any efforts to rehabilitate the petitioner in her matrimonial house since the date when they had started living separately. The learned trial Court had assessed the monthly income of the respondent to the tune of Rs.10,000/- to Rs.12,000/- as on the date of passing the impugned order. However, in my considered opinion, keeping in view the fact that he owned about five and half acres of land, it can easily be assumed that he was deriving good income from the same. The maintenance amount of Rs.2500/- per month therefore, cannot be stated to be sufficient especially in the circumstance when the respondent in sworn deposition is shown to have admitted himself that he had built kothi in his land and had been living there. In my opinion, the amount of maintenance as directed to be paid by learned Family Court was bare minimum and in view of ever rising price index, the same could

not be stated to be sufficient. A wife is entitled to same standard of living which she used to have when she was with her husband. Therefore, keeping in view the fact that the respondent has not even bothered to contest the petition and the entire facts and circumstances, I am of the opinion that the petitioner deserves some enhancement in the amount of maintenance which was directed to be paid by learned District Judge (Family Court), Ambala. Hence, the petition is partly allowed, the impugned order is modified and instead of Rs.2500/- the respondent is directed to pay amount of Rs.5000/- per month to the petitioner from the date of filing of the petition before the learned Family Court.

9. The petition stands disposed of accordingly.

16.02.2024

manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No