



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-43-2018(O&M)

Date of order: 14.11.2024

Bharat Attri

.....Petitioner(s)

Vs.

Smt. Rekha

.....Respondent(s)

CORAM:

HON'BLE MS. JUSTICE NIDHI GUPTA

Present:-

Mr. Anuj Tanwar, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Ms.Mehak Sawhney, Advocate
for the respondent.

Nidhi Gupta, J.

Challenge in the present petition is to the order dated 05.12.2017 passed by the learned District Judge, Family Court, Bhiwani, whereby in a proceeding under Section 125 Cr.P.C., the petitioner has been directed to pay final maintenance of Rs.35,000/- per month to the respondent/wife from the date of filing the petition.

2. Learned counsel for the petitioner submits that the impugned order deserves to be set aside on account of the fact that admittedly the respondent is working as an Assistant Librarian and earning Rs.18,000/- per month. As such, she has no requirement of maintenance. Moreover, the petitioner has additional liability of his old, aged parents to look after. The petitioner is also living in rented accommodation. On the other hand, the respondent has no such liabilities. It is reiterated that the respondent/wife is able-bodied and working as an Additional Librarian in a

reputed school at Bhiwani from which she is getting handsome salary of Rs.18,000/- per month. However, these facts have not been considered by the learned Family Court while passing the impugned order of maintenance. It is also submitted that there used to be regular quarrel between the petitioner and the respondent as she is of quarrelsome nature. It is argued that for this reason as well, the respondent is not entitled to maintenance.

3. Learned counsel for the respondent opposes the prayer made on behalf of the petitioner and submits that two children were born out of the wedlock of the parties who are in the care and custody of the respondent herself. It is contended that the respondent had been coerced into leaving the matrimonial home due to the atrocities of the petitioner and his mother. It is admitted that the respondent is working. However, it is submitted that she is earning only Rs.10,000/- per month. It is further contended that in the year 2018, the petitioner was drawing a salary of Rs.78,000/- per month which would have increased many times by now. It is accordingly prayed that the present petition be dismissed.

4. No other argument is made on behalf of the parties.

5. I have heard learned counsel for the parties and perused the case file in great detail.

6. Perusal of record of the case shows that the petitioner was married to the respondent on 11.02.1997. Two children were born out of the wedlock of the parties. Admittedly, the daughter who is elder of the two children is unmarried; and the son was born on 27.08.2013 and is still

minor. Admittedly also, both the children have been in the care and custody of the respondent/wife throughout. As per the record, the parties are living separately since 2013. Present petition under Section 125 Cr.P.C. was filed on 14.11.2014.

7. It has been argued on behalf of the petitioner that the respondent is not entitled to/does not require the maintenance as she is working as an Assistant Librarian in a reputed school in Bhiwani and earning Rs.18,000/- per month. The said contention of the petitioner deserves to be outrightly rejected. In this regard it is to be noted that it has been recorded in the impugned order that the petitioner has admitted vide Ex. P1 that he was torturing the respondent/wife. It would thus, appear that the respondent had not left the matrimonial home without sufficient cause. Needless to say, thereafter, the respondent was bound to take some steps to maintain herself and the children, who were both minor at that time of separation in 2013. Clearly therefore, it ought to be appreciated that the respondent has made concrete efforts in order to maintain herself and the minor children and has not sought the entire expenses from the petitioner. The factum of her employment cannot be held against the respondent to her detriment. Furthermore, admittedly, the respondent has brought up both the children single-handedly, who have been in her care and custody throughout. At present, the daughter is unmarried; and the son is admittedly minor and school going. In today's day and age of high expenses, the amount of ₹18,000/- is definitely not sufficient to meet the requirements at this stage. Also, the relationship between the parties is

admitted. As such, it is the moral and legal obligation of the petitioner to provide for the respondent. The entire responsibility cannot be foisted upon the respondent. It is also pertinent to note that on the basis of the pleadings and oral and documentary evidence produced before it, the Id. Family Court had returned the finding that the respondent is earning only Rs.10,000/- pm.

8. In the facts and circumstances of the present case, reference may be made to a judgment of a Coordinate Bench of this Court in **“Divesh Sapra Vs. Latika Sapra & Another” CRR-F-1834-2023 and CRR-F-587-2024 decided on 15.10.2024**, wherein it has been held that a professionally qualified wife cannot automatically be denied maintenance and the entire facts and circumstances of each case have to be taken into consideration at the time of granting and determining quantum of maintenance.

9. Reliance may also be placed upon judgment of the Hon'ble Supreme Court in **“Chaturbhuj Vs. Sitabhai” Law Finder Doc ID # 135040** wherein it has been held that merely because the wife is earning something does not imply that she is not entitled to maintenance; and had granted maintenance of Rs.3,000/- per month to respondent No.1/wife.

10. Furthermore, it has not been denied by the petitioner that he is in a permanent Government job as an Assistant Professor. As per the salary slip of the petitioner for the month of July 2017, he was drawing a salary of Rs.78,461/- per month. Needless to say, the said salary would have increased manifold by now.

11. It has further been contended by the petitioner that he has his old, aged parents to look after. However, it has been stated in Para 3 of the Grounds of Revision of the present petition that “*...in the year 2011 when the mother of the petitioner died...*”. As such, it appears that the petitioner has made a factually incorrect submission before this Court.

12. In view of the above facts and legal position, present petition is **dismissed**.

13 Pending application(s) if any shall also stand(s) disposed of.

14.11.2024	(Nidhi Gupta)
Sunena	Judge
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No