

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of order: 02.04.2024

CRR-F-552-2019(O&M)

Smt. Bholi Devi

.....Petitioner(s)

Vs.

Sh. Ram Lal

.....Respondent(s)

CRR-F-442-2019(O&M)

Ram Lal

.....Petitioner(s)

Vs.

Bholi

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Jitesh Sharma, Advocate
for the petitioner/wife.

Mr. Sandeep Arora, Advocate
for the respondent/husband.

Nidhi Gupta, J.

Both the present petitions are being disposed of by this common order as they arise out of same impugned order dated 10.05.2019 passed by learned Principal Judge, Family Court, Panchkula; as also facts, circumstances and parties are identical in both the cases.

2. For the sake of convenience, parties will be referred to as per their status in CRR-F-552-2019 filed by wife.

3. Prayer in the petition bearing No.CRR-F-552-2019 filed by the wife is for modification of judgment dated 10.05.2019 passed by learned Principal Judge, Family Court, Panchkula, whereby, although the petition filed by the petitioner/wife under Section 125 CR.P.C.has been allowed, however respondent/husband has been directed to pay meagre amount of Rs.2,500/- per month as maintenance to the petitioner/wife along with one time litigation expenses of Rs.3,300/-.

4. CRR-F-442-2019 has been filed by the husband seeking setting aside of above said impugned judgment dated 10.05.2019 passed by learned Principal Judge, Family Court, Panchkula.

5. Admitted facts of the case are that the parties were married about 45 years ago. The children born out of their wedlock have attained majority and are married. It has been alleged by the petitioner/wife that the respondent/husband used to treat her with cruelty and used to beat her up for no reason. It was further the case of the petitioner/wife that she was suffering from old age diseases, especially a chronic back problem for which she required medicine and treatment. However, as the petitioner has no source of income, she had filed the present petition under section 125 CRPC. The petitioner had earlier also filed petition under Section 125 Cr.P.C. for maintenance, which was withdrawn by her on 06.04.2016 as the matter had been compromised with the respondent/husband.

6. Learned counsel for the petitioner has stated that as per the terms and conditions of the said compromise, the respondent was required to pay a sum of Rs.8,000/- per month to the petitioner from November, 2015 onwards and also give some gold items to the petitioner. Learned counsel states that the respondent paid the said maintenance only up to April, 2016 along with two gold bangles on attaining retirement. However, after May, 2016, the respondent has paid nothing to the petitioner. Accordingly, the petitioner was constrained to file the present petition under Section 125 CR.P.C., which has been allowed vide the impugned judgment. It is submitted that the maintenance of Rs.2,500/- per month, as granted to the petitioner is on the lower side as the respondent has been granted Rs.40 lakh on his retirement from his Department and is also drawing a pension of Rs.20,000/- per month. It is submitted that as such, the petitioner is entitled to enhanced maintenance.

7. Per contra, learned counsel for the respondent/husband submits that he was working as a Technician in the Railway Department and has now retired from Northern Railways. It is submitted that the petitioner has continuously harassed the respondent and had even filed a false complaint against him with the police. It is stated that the contention of the petitioner that he is drawing Rs.20,000/- per month as pension is false. Learned counsel refers to reply filed by the respondent (Annexure P2) before the learned Family Court, wherein he has stated that he was getting a pension of only Rs.12,000/- per month. Learned counsel further submits that no compromise was entered into between the parties at any stage. It is further denied that the respondent had received a sum of Rs.40 lakh at the

time of his retirement. Learned counsel refers to Para 10 of the aforesaid reply to submit that the respondent is drawing an amount of Rs.12,000/- per month as pension and has only received Rs.15 lakh as retiral benefits.

8. Learned counsel further contends that the petitioner is residing in the matrimonial home under the same roof as the respondent. It is submitted that their son and his family and the married daughter of the parties are also residing under one roof and they have a joint kitchen. The respondent/husband is running the entire home and is maintaining everyone. Learned counsel further contends that the petitioner has failed to place on record any proof of any medical ailment being suffered by her and therefore, the sole ground on which she has been granted maintenance is untenable. It is accordingly prayed that the impugned order be set aside.

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

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

11. Perusal of record of the case shows that the parties were married about 45 years ago. Admittedly, the petitioner is residing in the matrimonial home under one roof along with the respondent, their son and his family, and their married daughter who is estranged from her husband, and they have a joint kitchen. Admittedly, the respondent/husband is maintaining the premises and paying the electricity expenses of the accommodation. As such, it is clear that the basic day to day amenities and requirements of the petitioner are being taken care of

by the respondent. This fact has also been admitted by the petitioner that she is living in the matrimonial home and the respondent/husband is maintaining the petitioner with regard to basic amenities of food, shelter, electricity, etc.

12. However, the primary ground on which the petitioner has sought enhancement of maintenance is that she is suffering from various medical ailments, in particular, a backbone problem for which she is undergoing treatment in a hospital at Saharanpur. However, no evidence, documentary or otherwise, has been produced by the petitioner to prove any medical condition, either before the learned Family Court or before this Court.

13. It has further come on record that the petitioner had also filed a police complaint not just against the respondent, but also against her son and daughter-in-law. As such, keeping in view the totality of the facts and circumstances of the case as noticed here in above, it is held that the maintenance as granted to the petitioner vide the impugned order is just and fair and that the petitioner is not entitled to any enhancement of maintenance.

14. As regards contention of the respondent husband that the petitioner is not entitled to any maintenance as he is taking care of her day to day requirements, the said argument deserves to be rejected on the ground that admittedly, the petitioner has no source of income. On the other hand, it has been admitted by the respondent/husband that he had received Rs.15 lakh as retiral benefits and is drawing a pension of

Rs.12,000/- per month. It has also been admitted by the respondent in Para 7 of his reply before the learned Family Court that “...it is the respondent who is taking all the care of the petitioner and used to get the treatment of the petitioner as and when the petitioner asked....”. As such, it has been admitted by the respondent that from time to time the petitioner requires medical treatment for her ailments. It was in this view of the matter that the learned Family Court had granted Rs.2,500/- as maintenance to the petitioner.

15. In view of the above, I find no ground is made out to interfere in the impugned order dated 10.05.2019 passed by learned Principal Judge, Family Court, Panchkula. Present petitions accordingly stand **dismissed**.

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

02.04.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No