

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of order: 23.04.2024

CRM-M-41062-2022(O&M)

Ravinder Kumar Garg

.....Petitioner(s)

Vs.

Archana Gupta

.....Respondent(s)

CRM-M-34237-2019(O&M)

Archana Gupta

.....Petitioner(s)

Vs.

Raminder Kumar Garg

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Promila Nain, Advocate
Mr. Amit Thakur, Advocate
for the petitioner/husband (in CRM-M-41062-2022).

Ms. Ritu Punj, Advocate
for the respondent/wife.

Nidhi Gupta, J.

CRM-M-34237-2019

Present petition under Section 482 Cr.P.C. is filed by the wife seeking quashing/modification of order dated 18.04.2019 for enhancing the interim maintenance of Rs.6,000/- per month granted thereby, to Rs.15,000/- and also for enhancing the cost of litigation from Rs.1,000/- to Rs.10,000/- in complaint No.MNT/125/104/2018 dated 18.05.2018.

CRM-M-41062-2022

Present petition under Section 482 Cr.P.C. is filed by the husband seeking quashing of order dated 18.04.2019 passed by learned JMJC, Kharar, whereby the respondent-wife was granted interim maintenance of ₹6000/- per month; **and** order dated 18.03.2021 passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby the revision petition filed by the petitioner against the above said order dated 18.4.2019 has been dismissed.

2. Both the petitions are being disposed of by this common order as facts, issues and parties are similar in the cases. For the sake of convenience, facts and parties are being referred from CRM-M-41062-2022, filed by the husband.

3. Learned counsel for the petitioner/husband inter alia submits that the petitioner was married to the respondent on 28.06.2017. No child was born out of this wedlock. It is stated that the marriage subsisted only for a period of 35 days as thereafter, the respondent/wife left the matrimonial house on 20.08.2017 of her own accord and volition. Ld. counsel submits that while leaving, the respondent took away all jewellery and other articles with her.

4. Learned counsel further contends that the respondent is not entitled to the impugned interim maintenance as she has misled the Courts below. In this regard, learned counsel refers to the petition filed by the respondent under Section 125 Cr.P.C. (Annexure P2) wherein in Para 8, the respondent has stated that she has no moveable or immoveable

property and has no source of income. Learned counsel then refers to the Jamabandi (Annexure P1), wherein the respondent is shown to be the owner of a property. Ld. counsel submits that the respondent is deriving rental income of Rs.10,000/- per month from the said property. Learned counsel further states that the respondent is an able-bodied woman; she is educated as she has studied up to +2; and that the respondent is also working as a Caretaker from where she is getting an income of Rs.15,000/- per month. It is submitted that accordingly, the respondent is not entitled to maintenance, and the present petition has been filed only to harass the petitioner.

5. Learned counsel further submits that the petitioner has the additional responsibilities of his old, widowed and ailing mother who is a heart patient, and whose medical expenses are borne by the petitioner. Ld. counsel states that the petitioner also has an unmarried sister who has just completed her graduation and is looking for further studies. In a few years, the petitioner will have to arrange for her marriage also. Learned counsel further states that the petitioner is working with The Indian Express and is getting a salary of only Rs.20,000/- per month. At the time of his marriage, the petitioner had also taken a loan of Rs.5,50,000/- and is now paying a monthly installment of Rs.12,260/- from his salary. It is submitted that accordingly, it is very difficult for him to pay the impugned maintenance.

6. Per contra, learned counsel for the respondent/wife although does not deny the above said facts, however, submits that the petitioner has misled the Courts below regarding his income. It is

contended that the petitioner is actually drawing a salary of Rs.40,000/- per month.

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

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

9. Broad factual matrix of the case is admitted by both the parties inasmuch as the petitioner and the respondent were married on 28.06.2017. No child was born out of their wedlock. The parties are living separately since 20.08.2017. Thereafter, the present petition under Section 125 Cr.P.C. was filed by the respondent on 18.05.2018, in which vide the impugned order dated 18.04.2019 the respondent has been granted interim maintenance of ₹6000 per month.

10. The order dated 18.04.2019 passed by learned JMJC, Kharar was challenged by the petitioner before the learned Additional Sessions Judge, SAS Nagar, Mohali by way of revision petition bearing No.CRR/133/2019, which was dismissed vide order dated 18.03.2021.

11. It has not been denied by the respondent/wife that she is owner of the property as mentioned in the Jamabandi (Annexure P1) nor that she is drawing a rental income from the same. It has further not been denied by the respondent/wife that she is +2 pass; that she is an able-bodied person; and that she works as a Caretaker from where she is getting income of Rs.15,000/- per month. It also remains undisputed that the respondent/wife has no additional responsibilities or liabilities, whereas the petitioner has the additional responsibilities of his widowed, aged, and

ailing mother, as also his un-married sister. As regards income of the petitioner, prima facie nothing has been shown to this Court by the respondent to disprove that the petitioner is earning ₹20,000 per month. Nonetheless, the said factor is a matter of trial and shall be finally determined by the learned Family Court at that stage.

12. At this stage, reliance may be placed upon judgment of Hon'ble Karnataka High Court in "**Smt. Shilpashree J. M. Vs. Gurumanjunatha A.S.**", 2023 SCC OnLine Kar 36, wherein it has been held as under:-

"8. The records also disclosed that before marriage petitioner No.1 was working as is evident from her cross examination. Her cross examination also reveals that she was residing along with her mother. It is also evident from her admission that, even after her desertion she continued to stay in the rented house along with her mother itself and the allegation does establish that she was not interested to stay with respondent Nos. 2 to 4. It is an admitted fact that at the instance of the present petitioner No. 1, a separate house was taken on rent and now the petitioners i.e., wife and child are residing therein along with her mother, but she was reluctant to stay with her mother-in-law and unmarried sister-in-law. It is an admitted fact that respondent No. 1- husband is running provision stores. Further, he is having responsibility of taking care of his mother and unmarried sister. Admittedly, the petitioner No. 1 was working prior to her marriage and it is asserted that after marriage she resigned the said job. But, there is no explanation as to why she is incapable of working now. She is not supposed to sit idle and seek entire maintenance from her husband and she is also legally bound to make some efforts to meet her livelihood and she can seek only supportive maintenance from her husband".

(Emphasis supplied)

13. In view of the facts and legal position as noticed hereinabove, CRM-M-34237-2019 filed by the respondent/wife seeking

enhancement of impugned interim maintenance of Rs.6,000/- per month is **dismissed**; whereas CRM-M-41062-2022 filed by the petitioner/husband is **partly allowed**. The impugned order dated 18.04.2019 passed by learned JMJC, Kharar and the impugned order dated 18.03.2021 are modified to the extent that it is directed that the petitioner shall pay Rs.1,000/- per month as interim maintenance to the respondent/wife.

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

23.04.2024

Sunena

(Nidhi Gupta)

Judge

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