

Sr. No.113

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR(F)-1233-2023
Date of decision: 02nd February, 2024**

AJAY **.....Petitioner**

versus

POONAM **.....Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Anjali, Advocate for
Mr. Bharat Arya, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Challenge in the present criminal revision petition is to the order dated 18.07.2023 passed by Family Court, Bhiwani whereby the petitioner-husband has been directed to pay a sum of Rs.5,000/- per month as maintenance to respondent-wife under Section 125 Cr.P.C.
2. Learned counsel for the petitioner contends that the petitioner is working as a Labourer and he is not having sufficient income. He is not having a permanent job. The petitioner has not refused to maintain the respondent-wife, rather the respondent-wife has willfully left her matrimonial home merely because the petitioner is a poor person. There is no threat to the life of respondent-wife in her matrimonial home as she has never filed any complaint to any of the authorities. However, the Family Court has not properly appreciated the evidence on record while awarding maintenance to the respondent-wife. It is further contended on behalf of the petitioner that the maintenance amount awarded by the Family Court, Bhiwani is excessive and on a higher side whereas, the earning of

the petitioner is meager, as such, prayer has been made for setting aside the order passed by the Family Court.

3. Keeping in view the facts and circumstances of the case, issuance of notice to the respondent is dispensed with.

4. As per the paper book, the respondent-wife filed a petition under Section 125 Cr.P.C. with the contentions that marriage with the parties between the parties was solemnized on 30.11.2012 and after the marriage, both the parties cohabited with each other. No child was born out of the wedlock. At the time of solemnization of the marriage, the sister of the respondent also got married with the brother of the petitioner. After marriage, the petitioner did not bring the respondent-wife to her matrimonial home on the pretext that the respondent-wife is still studying and she would be brought back after completion of her studies. Even after two years of marriage, the respondent-wife was not brought back to her matrimonial home and thereafter, the family members of the petitioner-husband started raising a demand of motorcycle, gold rings and gold chains from the sister of the respondent. When the sister of the respondent-wife insisted the petitioner-husband and his family members to bring back the respondent-wife to her matrimonial home, they got annoyed. It is further contended that in April 2014, the mother and brother of the respondent-wife visited her matrimonial home but instead of rehabilitating the respondent-wife, the petitioner and his family members even ousted the sister of the respondent from her matrimonial home along with her minor child. It was further contended that the respondent-wife does not own or possess any movable or immovable properties. She has no independent source of income whereas the petitioner-husband is a working as a driver on truck.

5. The petitioner filed reply to the said objections and contested the petition on various grounds. However, the marriage between the petitioner and the

respondent was admitted. It was contended that the respondent-wife is a lady of quarrelsome nature. She used to pick up quarrels with the petitioner and his family members on trivial issues and she used to give threats that she will implicate the petitioner and his family members in a false case. She even used to quarrel with the mother of the petitioner and left the matrimonial home. Thereafter, the petitioner-husband had visited the parental home of the respondent-wife to bring her back but her family members had flatly refused. The meetings of the Panchayat were convened but it led to no fruitful result. It was further contended that the petitioner is still ready to keep the respondent-wife but she has left her matrimonial home without any justifiable cause and without any fault on the part of the petitioner.

6. In the evidence, the respondent-wife herself appeared as PW-1 and examined her father as PW-2 whereas, the petitioner appeared as RW-1 and examined two other witnesses.

7. While allowing the petition, the Family Court relied upon the testimony of the respondent-wife (PW-1) and observed that her testimony is duly corroborated by her father Bhim Singh (PW-2). There is no evidence forthcoming on the part of the petitioner-husband that he is suffering from any physical disability. The Family Court further observed that the petitioner-husband failed to lead any evidence to show that the respondent-wife is the owner or in possession of any movable or immovable property. On the quantum of awarding maintenance, the Family Court observed that unless the husband is in a Government job or an Income Tax payee, it is not practically feasible for a wife to collect evidence with regard to the income of her husband and in such a situation, the income can be assessed only from the attending circumstances. Considering the fact that the petitioner-husband has alleged that he is doing labour work and keeping in view the

month and the petitioner-husband was directed to pay a sum of Rs.5,000/- per month to the respondent-wife.

8. The petitioner-husband has admitted the matrimonial relationship with the respondent. He had failed to point out that evidence led by the parties was not properly appreciated by the Family Court. It is admitted even in the pleadings of the petitioner-husband that the respondent-wife is living separately in her matrimonial home. The petitioner has failed to point out that there was any cogent evidence on record to show that the respondent-wife had left her matrimonial home without any reasonable cause, which has been overlooked by the Family Court. Similarly, on the point of determining the quantum of maintenance, the Family Court has rightly assessed the income of the petitioner as Rs.12,000/- per month, which an able-bodied person is presumed to be earning in his young age.

9. The Hon'ble Apex Court, in the case of “Jagannath Choudhary vs. Ramayan Singh”; 2002(2) R.C.R. (Criminal) 813, has held that the object of the revisional jurisdiction, as envisaged under Section 401 Cr.P.C. was to confer upon superior criminal courts a kind of paternal or supervisory jurisdiction, in order to correct miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precautions of apparent harshness of treatment, which has resulted, on the one hand, in some injury to the due maintenance of law and order, or on the other hand, in some undeserved hardship to individuals. Where the Court concerned does not appear to have committed any illegality or material irregularity or impropriety in passing the impugned order, the revision cannot succeed.

10. Keeping in view the aforesaid discussion, no irregularity or illegality has been pointed out in the impugned order dated 18.07.2023, as such, no ground is

made out for interference in the well-reasoned order passed by the Family Court, Bhiwani. Consequently, the present petition stands dismissed.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

02nd February, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>