



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

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CR-4775-2024**Date of Decision: 27.08.2024****Trin Kumar @ Trin Kumar Sharma**

....Petitioner

Versus

Roopa Randev and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Nitin Sachdeva, Advocate, Legal Aid Counsel
for the petitioner.

VIKAS SURI, J. (Oral)

1. This revision petition under Section 227 of the Constitution of India, filed by petitioner-husband Trin Kumar @ Trin Kumar Sharma, assails the order dated 01.04.2022 (Annexure P-3) passed by learned Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Garhshankar, whereby an amount of Rs.5,000/- per month has been awarded as maintenance allowance and further Rs.4,000/- per month as rent to respondent No.1 (wife), besides Rs.4,000/- as litigation expenses; as well as the order dated 22.05.2024 (Annexure P-5) passed by learned Additional Sessions Judge, Hoshiarpur, whereby the appeal preferred against the aforesaid order has been dismissed.

2. Briefly stated, respondent No.1-Roopa Randev (wife of the petitioner) had filed an application under Sections 12, 15, 17 to 20 of the

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Protection of Women from Domestic Violence Act, 2005, seeking maintenance, rent for accommodation and litigation expenses. The said application was opposed by filing reply. The learned Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Garhshankar, partly allowed the said application vide order dated 01.04.2022 (Annexure P-3). The appeal preferred thereagainst was dismissed vide order dated 22.05.2024 (Annexure P-5).

3. Aggrieved by the aforesaid orders, petitioner-husband has invoked jurisdiction by way of the instant petition.

4. Learned counsel for the petitioner has argued that the allegations by the respondent-wife are false and baseless and she has concocted a false story. It is further submitted that the petitioner is not earning anything being out of job. He was earlier working with Max Speciality Films Limited since 21.08.2007 and his employment ceased w.e.f. 10.12.2020. Reference is made to the letter of separation dated 05.11.2020 (Annexure P-6). It is further submitted that the petitioner has liability of one male child, who suffers from 82% disability by birth. It is further submitted that the petitioner-husband and his disabled son are entirely dependent upon Ved Parkash Sharma (respondent No.3 herein) i.e. father of the petitioner and grandfather of disabled child, who is a pensioner aged about 77 years.

5. I have heard learned counsel for the petitioner and perused the record.

6. Perusal of the impugned orders would show that on consideration of the pleadings and rival submissions of both the parties, it was held that both



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the sides have made allegations and counter allegations against each other and their rights are yet to be determined in the main petition after receipt of evidence. It has been further held that the question as to which side is at fault, will be decided after the parties have led their respective evidence, which stage is yet to come. Accordingly, the application for interim maintenance was accepted vide order dated 01.04.2022 (Annexure P-3) and an amount of Rs.5,000/- per month was assessed as maintenance allowance along with Rs.4,000/- per month as rent, so that the wife can arrange suitable accommodation for herself, besides a sum of Rs.4,000/- as litigation expenses. Further, a direction was issued restraining the petitioner and other co-respondents before the Court of first instance from committing any act of domestic violence against the petitioner. The said order was challenged in an appeal before the Additional Sessions Judge, Hoshiarpur, which was dismissed vide order dated 22.05.2024 (Annexure P-5).

7. The relationship between the parties is admitted in the instant case. It is not disputed that respondent No.1 is the legally wedded wife of the petitioner and that she is residing separately. The parties have levelled allegations and counter allegations against each other. The Courts below have held that it is the duty of husband to maintain the wife, who is entitled to the same standard of living, which she was enjoying in her matrimonial home. The decision in *Shamima Farooqui vs. Shahid Khan*, (2015) 5 SCC 705, has been relied upon to hold that a plea advanced by the husband that he does not have a job and, thus, does not have the means to pay maintenance are only bald excuses and in fact, they have no acceptability in law. It is laid down by

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the Apex Court that if the husband is healthy and able bodied, he is under the legal obligation to support his wife. He cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning. A coordinate Bench in ***Rajesh vs. Sunita and others, 2019(1) HLR 82***, held that it is the first and foremost duty of the husband to maintain the wife and child.

8. In the case at hand, it is not disputed that since December, 2020 the petitioner has maintained himself and his disabled child, who is suffering from cerebral palsy and is reported to have 82% temporary disability in relation to his whole body, as per disability certificate dated 23.12.2021 (Annexure P-7). Moreover, no material has been shown to this Court that despite the other liabilities upon the petitioner-husband, he cannot maintain the respondent-wife. It trite law that it is the moral duty of the husband to maintain his wife and child. Thus, the argument advanced on behalf of the petitioner deserves to be noticed and rejected.

9. During the course of hearing, learned counsel for the petitioner failed to point out any patent illegality or perversity in either of the impugned orders, passed by the Courts below. No decision of the Apex Court has been brought to the notice of this Court taking a contrary view than the one noticed herein above.

10. Accordingly, considering the facts and circumstances of the case, in view of the law settled by the Apex Court, this Court is of the considered view that the present revision petition is without any substance, and thus, being bereft of merit, must fail. No cause for interference in exercise of



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revisional jurisdiction has been made out.

11. Resultantly, with the aforesaid observations, the instant revision petition is dismissed.

August 27, 2024
Varinder

(VIKAS SURI)
JUDGE

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