

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1003-2022 (O&M)
Date of decision: 23.07.2024

RAJESH KUMAR . . . PETITIONER

V/s

NEHA BALA AND ANR. . . RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amandeep Singh Manaise, Advocate for petitioner.

Ms. Tania Mahajan, Advocate
for the respondents.

SUMEET GOEL, J.

1. Present criminal revision petition has been filed against the order dated 13.09.2022 passed by Principal Judge, Family Court, Pathankot, in a petition filed under Section 125 Cr.P.C. Respondents herein being wife and minor daughter of the petitioner filed a petition under Section 125 Cr.P.C. against the petitioner, seeking maintenance. Along with the said petition an application for grant of interim maintenance was also filed. While allowing the application for grant of interim maintenance the Family Court vide order dated 13.09.2022 ordered for grant of interim maintenance of Rs.6,000/- per month to the respondent No.1 (wife); and Rs.3,000/- to the

respondent No.2 (minor daughter) by the petitioner besides an amount of Rs.5500/- towards litigation expenses.

2. Shorn of unnecessary details, the facts germane to the adjudication of the present criminal revision petition as borne out of the pleadings of the parties are that the marriage of petitioner was solemnized with respondent No.1 on 06.12.2014 as per Hindu rites and ceremonies. Out of the said wedlock respondent No.2 was born on 26.08.2015. It is the case of the respondent No.1 as pleaded in the petition under Section 125 Cr.P.C. filed before the Family Court, that her parents spent huge amount on her wedding and gave various household articles and jewellery etc. to her in the marriage. It is pleaded that the petitioner and his family started harassing and beating the respondent No.1 as they were not happy with the birth of girl child. It is pleaded that a person namely Deepak, who was relative of the petitioner, was keeping a bad eye on the respondent No.1, and the family of the petitioner started assassinating the character of respondent No.1 by associating her name with said Deepak. It is stated that on 26.08.2015 on birthday of respondent No.2 said Deepak tried to molest the petitioner No.1 and a complaint in this regard was made by her to the petitioner and his family members, but they started blaming her only. It is contended that the petitioner and his family members started giving some medicine laced food to the respondent No.1 due to which she started facing psychiatric problem and petitioner even forced her in February, 2020 to write a suicide note and commit suicide. The petitioner had thrown the respondents out of his house and intentionally deserted

them without reasonable cause. It is asserted that the petitioner is working as an Engineer with a company namely, Jackson at Kathua, Jammu and Kashmir, having income of Rs.30,000/- per month and has some other sources of earning also through overtime etc., whereas the respondent No.1 has no independent source of income. An amount of Rs.25,000/- per month and Rs.50,000/- as litigation cost has been claimed by respondents as maintenance.

3. To the contrary the petitioner in his reply to the petition under Section 125 Cr.P.C. before the Family Court denied all the above-mentioned averments of the respondent No.1 as being incorrect. He pleaded that the respondent No.1 used to tell him since the very beginning of their marriage that her marriage with the petitioner has been performed without her consent. She used to tell that she wanted to marry the boy of her choice namely Deepak Dogra as she was in love with him prior to her marriage. It is pleaded that the respondent No.1 had lived adulterous life with Deepak Dogra. She openly proclaimed that she cannot live without said Deepak Dogra and flatly refused to come and join the society of the petitioner. Respondent No.1 lodged a police complaint dated 01.02.2021 against the petitioner and his family members. Police after conducting enquiry in the said complaint found the petitioner and his family members innocent and complaint was consigned to record. He relied upon (Annexure P-8) and enquiry report by the police that the respondent No.1 stayed with Deepak Dogra from 22.03.2024 to 24.03.2024 at Hotel HIM HOME STAY, Manali (HP). On the aspect of income it is admitted by petitioner that he is working

as an engineer, but his income is Rs.25,000/- per month. He pleaded that he had to spent Rs.10,000/- per month on his elderly ailing parents, Rs.8,000/- per month on his miscellaneous expenses i.e. electricity, water, grocery, milk and daily needs. Besides he pays Rs.2,000/- per month as premium to LIC, Rs.1,000/- per month in the name of respondent No.2 in Sukanya Samridhi Scheme. He has to spend an amount of Rs.4,000/- on his travel from his place of residence in District Pathankot, Punjab to Kathua in Jammu & Kashmir. In this manner he is left with an amount of Rs.6,000/- per month.

4. Perusal of the order dated 13.09.2022 passed by the Family Court shows that the Family Court took into account all the relevant material placed on record by the parties including the affidavits of assets and liabilities filed by both the parties. The Family Court found that the respondent No.1 claimed that she does not have any source of income while expenditure is Rs.17,000/- per month. Her mother has purchased a 10 marlas plot of land in her name and she also owns a scooter. The Family Court after going through the salary record of the petitioner (herein) held that in the month of July, 2017 his salary was Rs.38,949/- per month. But that said amount includes Rs.19,264/- as performance link reward, which is paid only once a year. However, in the separate salary certificate submitted by the petitioner for the month of April, 2022, he has admitted his net income as Rs.25,675/- per month. The petitioner failed to prove that the respondent No.1 is gainfully employed anywhere. Accordingly, the Family Court directed the petitioner to

pay an amount of Rs.6,000/- per month to respondent No.1 and Rs.3,000/- per month to respondent No.2 as interim maintenance.

5. At this stage of proceedings when the record of the case comprise only the pleadings of the parties, which are still to be substantiated on the touchstone of evidence to be led by them, the allegations and counter-allegations of the parties cannot be conclusively adjudicated. However, pending the adjudication of the main petition for grant of maintenance, the respondents cannot be held to be debarred from claiming maintenance for their sustenance. It is trite law that the pleadings, howsoever meticulously laid down, cannot substitute the necessity of proof. Adopting any such view would run completely antithesis to the benevolent provision of Section 125 of the Code of Criminal Procedure. In these circumstances the allegations raised by the petitioner against the respondent No.1 of leading adulterous life, cannot be acceded to at this stage of the proceedings, especially in view of the long subsisting matrimonial life between the parties spanning over ten years.

6. The criteria adopted by the Family Court in evaluating the monetary needs and financial status of the parties in my considered opinion does not suffer from any legal or factual vice. The learned Family Court has evaluated the respective affidavits of assets and liabilities filed by both the parties in a pragmatic and judicious manner. It is trite law that at the stage of adjudicating the request for grant of interim-maintenance some amount of guess work in evaluating the amount of maintenance is not impermissible. Rather, the Family Court, with access to comprehensive material and its

expertise, is better equipped to identify any attempts by either party to misrepresent their financial status. It is well-positioned to employ reasonable estimation to ensure a fair and equitable outcome.

7. Petitioner has not been able to bring to the notice of this court any such glaring illegality or infirmity in the order of interim maintenance passed by the Family Court, so as to warrant any interference in the matter by this court. In view of the same the present criminal revision petition is dismissed being bereft of merit.

8. Nothing said hereinabove shall be construed as opinion on the merits of the case.

9. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 23, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No