



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-1026-2022(O&M)

Date of order: 29.11.2024

Rohit Singhi @ Rohit Kumar Singhi

.....Petitioner(s)

Vs.

Paramjit Kaur & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anand Vardhan Khanna, Advocate
for the petitioner.

Mr. Vivek Gupta, Advocate
for the respondents (through VC).

Nidhi Gupta, J.

Challenge in the present petition is to the order dated 25.08.2021 (Annexure P1) passed by the learned Principal Judge, Family Court, Hoshiarpur, Camp Court at Mukerian, whereby in a proceeding under Section 125 Cr.P.C., the petitioner has been directed to pay interim maintenance of Rs.8,000/- per month to the respondents (Rs.5,000/- per month to respondent No.1/wife and Rs.3,000/- per month to respondent No.2/minor son) from the date of application along with litigation expenses of Rs.5,000/-.

2. Learned counsel for the petitioner inter alia submits that the impugned order deserves to be set aside as the petitioner does not have the means to pay the same. Moreover, the respondent No.1 is a quarrelsome lady. In fact, it is the wife and her family members who had demanded Rs.5 lakh from the petitioner otherwise she will not stop

treating his parents and his family members with utmost cruelty. Further, the respondent No.1/wife had left the matrimonial home and the petitioner and took all her cash, jewellery, documents and other expensive articles. As such, the petitioner has also filed a petition under Section 9 of the Hindu Marriage Act. Moreover, the petitioner is getting salary of only about Rs.20,000/- per month. The petitioner has to make expenses for treatment of his ailing father as well. Father of the petitioner is bed-ridden and is completely dependent on him. It is accordingly prayed that the impugned order be set aside.

3. No other argument is made on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and perused the case file in great detail.

5. Perusal of record of the case shows that the petitioner was married to respondent No.1 on 13.03.2016. Respondent No.2 was born out of their wedlock, who is in the care and custody of respondent No.1. Due to matrimonial discord, the parties are living separately since 01.01.2018. The petition under Section 125 Cr.P.C. was filed by the respondents on 19.08.2021.

6. It is contended by the petitioner that he is unable to pay the impugned maintenance as he is earning only about Rs.20,000/- per month. However, admittedly, the petitioner is doing job in V5 Global Services Private Limited. It is by now a settled trend that in matters of maintenance such as the present one, the husband tries to depict his income on the lower side, whereas the wife attempts to show an

exaggerated income of the husband. The truth usually lies somewhere in between. In any event, these are all matters of evidence. The truth or otherwise of the allegations and counter-allegations made by both the parties can only be determined upon leading of evidence. As such, it is neither desirable nor feasible for this Court to interfere at this stage, let alone return a finding in respect of the contrary assertions made by either of the parties.

7. In any event, the said argument of the petitioner is liable to be rejected in view of judgment of the Hon'ble Supreme Court in **"Shamima Farooqui v. Shahid Khan" (SC): Law Finder Doc Id # 661024**, wherein it has been categorically held as follows: –

"B. Criminal Procedure Code, 1973 Section 125 Grant of maintenance to wife - Plea of husband that he was not doing job and had no means to pay cannot be accepted - These are only bald excuses - Held :-

(i) If the husband is healthy, able bodied and is in a position to support himself, he is under the legal obligation to support his wife.

(ii) It is the obligation of the husband to maintain 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."

8. Admittedly, the petitioner does not suffer from any physical infirmity and is healthy and able bodied. As such, he cannot absolve himself of his moral and legal responsibility towards the respondents.

9. It has next been contended on behalf of the petitioner that the respondent No.1 had left the matrimonial home of her own accord and is therefore not entitled to maintenance. However, the said allegation of the petitioner is per se not borne out from the record. Even otherwise, the same is a matter of evidence.

10. It has also been contended that the petitioner has filed a petition under Section 9 of the Hindu Marriage Act. However, it come on record that the said petition was filed by the petitioner on 05.10.2021 i.e. after the filing of the present petition under Section 125 Cr.P.C. by the respondents on 19.08.2021. Admittedly, the said petition under Section 9 of the Hindu Marriage Act was withdrawn by the petitioner on 26.04.2022.

11. Moreover, the petitioner is also stated to be in arrears of maintenance of almost Rs.3 lakh. Vide order dated 26.09.2024, this Court had directed the petitioner to be present in person before this Court along with a demand draft in the name of respondent No.1/wife for an amount of Rs.2,80,000/-. However, the sad direction has not been complied with by the petitioner till date. Thus, exhibiting a totally uncooperative attitude and refusal to fulfil his moral and legal obligation qua the respondents.

12. Even otherwise, the grant of interim maintenance is a temporary measure of social justice to help the abandoned wife and children to tide over the difficult period. It is oft-repeated and no longer res integra that Section 125 Cr.P.C. is a measure of social justice to protect abandoned wife, children and parents from vagrancy and destitution. In

“Kirtikant D. Vadodaria v. State of Gujarat & Another” (1996) 4 SCC 479,

the Hon’ble Supreme Court has opined as follows:

“15. ...While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation...”

13. Again, a three-Judge Bench of the Hon’ble Supreme Court in **“Vimala (K.) v. Veeraswamy (K.)” (1991) 2 SCC 375**, speaking through Justice Fatima Beevi, held as follows:

“3. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife...”

14. Thus, the purpose of Section 125 Cr.P.C. is to protect abandoned wives who are unable to maintain themselves from vagrancy and destitution, to grant social justice to a destitute woman, child, or infirm parents. Moreover, in view of the admitted relationship between the

parties, the petitioner cannot escape his responsibility to maintain the respondents.

15. Accordingly, I find no ground is made out that calls for interference in the impugned order. As such, the present petition is **dismissed**.

16. However, it is made clear that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the matter.

29.11.2024

Sunena

(Nidhi Gupta)

Judge

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