

128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-1466-2023 (O&M)

Date of Decision: 26.02.2024

RAMENDER

.....PETITIONER

Vs.

PRIYANKA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Ravi Malik, Advocate, for the petitioner.

HARPREET KAUR JEEWAN J.

1. Firstly, it is to be noticed here that in the previous order, the date of the order has inadvertently been written as 12th January, 2023, whereas it should have been 12th January, 2024.

2. The error is a typographical error. Consequently, the same is corrected. Office to do the necessary corrections in the original order.

3. Challenge in the present Criminal Revision Petition is to the order dated 01.09.2023 passed by learned Principal Judge, Family Court, Palwal, Camp Court, whereby the petitioner-husband has been directed to pay a sum of ₹10,000/- per month as maintenance to respondent No. 1-wife and a sum of ₹5,000/- as maintenance to respondent No. 2-minor child under Section 125 Cr.P.C.

4. Learned counsel for the petitioner *inter alia* contends that the marriage of the petitioner and respondent No. 1 was solemnized on 29.10.2009 according to the Hindu rites and rituals at Palwal (Haryana). Out of the said wedlock, two children were born, out of them one has expired and another one is respondent No. 2-Dev, who is presently living with respondent

No. 1 (wife). The petitioner has never refused to maintain her wife and child rather respondent No. 1-wife has willfully left her matrimonial home as per her own will. The family members of the petitioner has tried many times to settle the matter but respondent No. 1-wife always refused the same. The petitioner was never served before the trial Court but the Family Court proceeded the petitioner *ex parte* and granted the maintenance of ₹15,000/- per month [₹10,000/- (to respondent No. 1-wife) and ₹5,000/- (to respondent No. 2-minor child)]. The maintenance amount awarded by the Family Court, Palwal, is excessive and on a higher side as such, prayer has been made for setting aside the order passed by the Family Court.

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

6. On the last date of hearing, the following order was passed by this Bench:-

*“A copy of the affidavit regarding income, assets and liabilities in view of the directions of the Hon’ble Supreme Court in **Rajesh vs. Neha and another** (2021) 2 SCC 32, if submitted before the Family Court, be also placed on record.*

In the meantime, the petitioner to show his bonafide shall deposit some amount by way of demand draft in favour of the respondents as he is stated to be working as Constable in Haryana Police and is alleged to be earning Rs. 50,000/- per month.

7. Today, upon query put to learned counsel for the petitioner, neither he has placed on record any affidavit nor he could show his *bona fide* in favour of the respondents.

8. Counsel for the petitioner could not point out that before proceedings them *ex parte*, service of the petitioner was not effected. A copy of the order dated 01.10.2021 whereby the petitioner was proceeded against *ex parte* has not been placed on *record*. The petition has been finally decided on 01.09.2023, i.e. 2 years after the order dated 01.10.2021 was passed. The petitioner could not explain that during this period, he did not come to know about the pendency of the proceedings against him.

9. As noticed in the previous order, the petitioner is working as a Constable in Haryana Police and is alleged to be earning ₹50,000/- per month. As per the statement of Narender Singh, HC (PW-3) Assistant Pay Clerk, C.P. Office, Sector 21, Faridabad, the gross salary of the petitioner is ₹52,266/- per month which after deduction comes to ₹47,931/-. It has been observed by the learned Principal Judge, Family Court, that the petitioner did not bother to contest the claim of the respondents and consequently proceeded against *ex parte*. The income of the petitioner has been successfully established by the testimony of Narender Singh, HC (PW-3). It is not mentioned anywhere in the petition that respondent No. 1-wife is doing any job. The relationship between the parties is not disputed by the petitioner.

10. The order passed by the Family Court is well reasoned. The allegations of the petitioner that respondent No. 1-wife has left the matrimonial home as per her own will are not supported with any other evidence. Per contra the respondent-wife stepped into the witness box as PW-1 and also examined her father Chander Singth as PW-2 to corroborate the version made in the petition. The respondent-wife is not working. In such

circumstances, the petitioner has the liability to maintain his wife and children.

11. Petitioner has not shown *bona fide* of his actions by complying with the order dated 12.01.2023 passed by this Court. Despite the fact that the petition was filed by the respondent No.1-wife and the respondent No. 2-minor child

12. 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. 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.

13. Keeping in view the aforesaid discussion, no irregularity or illegality has been pointed out in the impugned order dated 01.09.2023 as such, no ground is made out for interference in the well-reasoned order passed by the Family Court, Palwal.

14. Consequently, the present petition stands dismissed.

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

February 26, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No