

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

109

CRR-F-1497-2023 (O&M)

Date of order: 27.02.2024

Pooja

.....Petitioner(s)

Vs.

Rajit

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Azad Khan, Advocate
for the petitioner.

Nidhi Gupta, J.

CRM-5899-2024

This is an application under Section 482 Cr.P.C. for placing on record statement of the petitioner as PW1, in compliance of order dated 07.12.2023, passed by a Co-ordinate Bench of this Court.

After going through the contents of the application, which is supported by affidavit of the applicant/petitioner, present application is allowed, subject to all just exceptions, and statement of the applicant/petitioner as PW1, is taken on record.

MAIN CASE

Challenge in the present petition is to order dated 04.09.2023 passed by learned Principal Judge, Family Court, Rohtak, whereby application filed by the petitioner under Section 125 Cr.P.C. for grant of maintenance, has been dismissed.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the respondent on 18.02.2018. No child was

born out of their wedlock. Due to temperamental differences, the parties have separated. However, it is submitted that in view of the fact that marriage between the parties is not disputed, the petitioner is entitled to maintenance.

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 detail.

5. Perusal of record of the case shows that marriage with the petitioner was the second marriage of the respondent. The respondent has a minor daughter namely Diksha from his previous marriage. Her school fee receipt produced as Exhibit R1 before the learned Family Court is on record. Accordingly, respondent has the added responsibility of his daughter, not only of her education but also all her other day to day expenses.

6. Besides that, the petitioner has admitted in her cross-examination that she has done a course of Beautician and Tailoring. In similar circumstances, the Hon'ble Karnataka High Court in Smt. Shilpashree J. M. Vs. Gurumanjunatha A.S., 2023 SCC OnLine Kar 36, has

held as under:-

"8. The records also disclose that before marriage petitioner No.1 was working as is evident from her cross examination. Her cross examination also reveals that she was residing along with her mother. It is also evident from her admission that, even after her desertion she continued to stay in the rented house along with her mother itself and the allegation does establish that she was not interested to stay with respondent Nos. 2 to 4. It is an admitted fact that at the instance of the present petitioner No. 1, a separate house was taken on rent and now the petitioners i.e., wife and child are residing therein along with her mother, but she was reluctant to stay with her mother-in-law and unmarried sister-in-law. It is an admitted fact that respondent No. 1- husband is running

provision stores. Further, he is having responsibility of care of his mother and unmarried sister. Admittedly, the petitioner No. 1 was working prior to her marriage and it is asserted that after marriage she resigned the said job. But, there is no explanation as to why she is incapable of working now. She is not supposed to sit idle and seek entire maintenance from her husband and she is also legally bound to make some efforts to meet her livelihood and she can seek only supportive maintenance from her husband".

(Emphasis supplied)

7. Furthermore, although allegations have been made by the petitioner against the respondent that he had given beatings to her, however, no medical record whatsoever has been attached in support of the same. Even the allegations made by the petitioner that she had suffered miscarriage due to the beatings given to her by the respondent, were not found to be true by the police during investigation in the criminal case lodged by the petitioner against the respondent and his family. It has also been admitted by learned counsel for the petitioner that a Panchayati compromise (produced before the learned Family Court as Exhibit R7) was entered into between the parties as per which, the respondent had agreed to pay a sum of Rs.2 lakh to the petitioner. It has been alleged that the said compromise could not be affected as the petitioner subsequently started demanding ₹5 lakhs as settlement.

8. Moreover, it has also come on record that after her marriage with the respondent on 18.2.2018, the petitioner had stayed in the matrimonial home only till 04.04.2018 i.e. for a period of less than two months. Even during this period from 18.02.2018 to 04.04.2018, the petitioner frequently returned to her parental home on 26.02.2018 till 04.03.2018, again from 14.03.2018 till 18.03.2018, before finally leaving the

matrimonial home on 04.04.2018. Therefore, the parties have lived together as husband and wife for a period less than 2 months. These facts have been admitted by the petitioner in her cross-examination before the learned Family Court. Furthermore, it has even been admitted by the petitioner in her cross-examination that '*she was not inclined to live with the respondent*'.

9. From the above facts, it is clear that the petitioner has left the matrimonial home of her own free will and without sufficient cause. As such, under Section 125(4) Cr.P.C., the petitioner is not entitled to any maintenance.

10. Even learned counsel for the petitioner is unable to controvert the findings given by the learned Family Court.

11. In view of the above, I find no merit in the present petition, and the same is accordingly **dismissed**.

12. Pending application(s) if any also stand(s) disposed of.

27.02.2024
Sunena

(Nidhi Gupta)
Judge

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