

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

223

CRR (F) No.928 of 2019
Date of decision: 20.01.2024

Kirti ... Petitioner

Vs.

Vikas ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Parminder Singh, Advocate,
for the petitioner.

None for the respondent.

MANISHA BATRA, J.

1. None has appeared on behalf of the respondent today despite the fact that the matter has been passed over thrice. As such, the respondent is proceeded against ex parte.
2. Learned counsel for the petitioner has argued that the impugned order dated 28.08.2019 as passed by learned Additional Principal Judge, Family Court, Karnal whereby, maintenance to the tune of Rs.7000/- per month had been directed to be paid to the petitioner by the respondent is liable to be modified as the amount of maintenance so directed to be paid is quite meager and is not at all sufficient for meeting with the day to day essential requirements of the petitioner. He has argued that while passing the impugned order, the learned Family Court ignored the fact that apart from doing a private job, the respondent owned

substantial properties in the form of six and half acres of land and was earning an amount of not less than Rs.1 lac per month. Hence, he has argued that the petition deserves to be allowed.

3. Before proceeding further, it will be relevant to mention here that the aforementioned petition under Section 125 of Cr.P.C. had been filed by the petitioner who is wife of the respondent on the averments that she was married with the respondent on 14.12.2014. The behaviour of the respondent and his family members was not good with her and she was harassed on account of demands of dowry and was also given taunts and beatings and was ultimately thrown out of her nuptial home in the month of August 2017 and ever since then she was staying with her parents. Her male child born on 02.06.2017 was also snatched from her. She was living with her parents. While submitting that she was unable to maintain herself and the respondent had refused and neglected to maintain her, she had made prayer for directing the respondent to pay a sum of Rs.50,000/- per month as maintenance by further submitting that he was doing a private job and owned six and half acres agricultural land from which also he was deriving income. It is also revealed from the record that the respondent initially appeared in response to the notice of the petition but then absented himself and was proceeded against ex parte and it is after considering the ex parte evidence produced on record by her that the impugned order has been passed by the learned Family Court.

4. On giving due deliberations to the contentions as raised by learned counsel for the petitioner and on a perusal of record, it is

Neutral Citation No.2024:PHHC:008040

reflected that it stands un rebutted and unchallenged that the petitioner is legally wedded wife of the respondent and has been living separately from him since August 2017. Since the respondent had been proceeded against ex parte before the learned Family Court and there is also nothing on record to show that the said order as well as the impugned order have been challenged by him, therefore, it also goes without saying that he is proved to have deserted his wife without any reasonable ground. Further no efforts are proved to have been made by her so as to rehabilitate her. The evidence as led by the petitioner to the effect that she is living with her parents and is not capable of maintaining herself has also remained un rebutted and there is nothing on record to disbelieve the same.

5. Section 125 Cr.P.C. is in the nature of a benevolent provision having a social purpose with the primary object to ensure social justice to the wife, child or parents, who are unable to support themselves so as to prevent destitution and vagrancy and to compel a man to perform the moral obligation which he owes to the society in respect of his wife or children so that they are not left beggared and destituted on the scrapheap of the society and thereby driven to a life of vagrancy, immorality and crime for their subsistence. The powers under this section is to be exercised with discretion in a judicial manner which is consistent with the language of the statute with regard to the other relevant circumstances. It is well settled proposition of law that a wife is entitled to maintain a standard of living which is neither luxurious nor penurious and she is also entitled to lead decent life yet at par with the dignity and

Neutral Citation No.2024:PHHC:008040

status of the husband. At the same time, however, while awarding maintenance, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance and dependant family members if any whom he is obliged to maintain under the law, liabilities if any are also required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid as observed by Hon'ble Supreme Court in **Rajnesh v. Neha and another**, 2020 (4) R.C.R. (Criminal) 879. It was observed by Hon'ble Supreme Court that the Court must have due regard to the standard of living of husband, the spiralling inflation rates and high costs of living. In the instant case, the petitioner had claimed that the respondent husband owns six and half acres of land and to prove the same, she had produced on record Ex.P-2 copy of jamabandi for the year 2016-17 which as reflected in the order passed by learned Family Court, showed ownership of the respondent over the abovesaid land, though the petitioner could not bring on record any proof qua the respondent being in a private job. However, the learned Family Court while considering the fact that he owned substantial agricultural land had directed him to pay an amount of Rs.7000/- per month to the present petitioner as maintenance. Since the respondent did not even bother to appear before the learned Family Court and contest the petition and has abstained from appearing before this Court also today, and as the evidence as produced before the learned Family Court as to his being owner of six and half acres of land stands unchallenged therefore, it can reasonably be assumed that he must be deriving good income from

Neutral Citation No.2024:PHHC:008040

the same though no affidavit is shown to have been filed by him with regard to the details of his income which is also a circumstance as per which an adverse inference can be drawn against him. Therefore, keeping in view the overall facts and circumstances, I am of the considered opinion that the amount of Rs.7000/- which had been assessed by learned Family Court cannot be considered to be sufficient for the sustenance of the petitioner keeping in view the financial capacity of the husband as well as the fact that the price index is rising everyday thereby making cost of living high even for meeting with the basis necessities of food, lodging, clothing and medicine etc. Regard is also to be taken to the fact that she is entitled to maintain the same standard of living which she was having when she was living with the respondent. With these observations, the impugned order is modified and the amount of maintenance is enhanced to Rs.10,000/- per month as the same can be stated to be reasonably commensurate with the income of the respondent.

6. The petition accordingly stands partly allowed.

20.01.2024
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(MANISHA BATRA)
JUDGE

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