IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

108 **CRR-F-418-2024(O&M)**

Date of order: 19.03.2024

Harjeet Kaur

…..Petitioner(s)

Vs.

Kuldeep Singh

…..Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ravish Bansal, Advocate
for the petitioner.

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Nidhi Gupta, J.

CRM-12733-2024

This is an application under Section 5 of Limitation Act, 1963 for condonation of delay of 142 days in filing the petition.

After going through the contents of the application, which is supported by affidavit of learned counsel for the applicant/petitioner, the same is allowed subject to all just exceptions and delay of 142 days in filing the present petition is condoned.

MAIN CASE

Prayer in the present petition filed by petitioner/wife is for setting aside order dated 20.07.2023 passed by learned Principal Judge, Family Court, Faridkot whereby application filed by the petitioner/wife under Section 125 Cr.P.C. has been dismissed.

2. Learned counsel for the petitioner inter alia submits that the only ground on which the learned Family Court has dismissed the

application of the petitioner/wife is that she is an educated lady and was running an IELTS Centre and was therefore, able to maintain herself. It is submitted that even if the petitioner is able to maintain herself does not absolve the respondent/husband from his obligation to pay maintenance allowance to the petitioner/wife under Section 125 Cr.P.C. It is further submitted that very objectionable findings have been given by learned Family Court in para 12 of the impugned order, wherein it has been 'held' that the petitioner had administered some poisonous substance to the respondent/husband and his mother. It is prayed that accordingly, 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 detail.

5. Perusal of record of the case shows that the petitioner was married to the respondent on 07.04.2019. Admittedly, the parties started living separately barely two weeks after the marriage. As per the respondent, the parties are living separately since 15.04.2019; however, as per the petitioner, the parties are living separately since 2-3 weeks after the marriage. No child was born out of this wedlock.

6. Perusal of impugned judgment shows that the petitioner's application under Section 125 Cr.P.C. has been dismissed primarily on the ground that the petitioner had tried to project as if she had no means of maintaining herself as she had failed to disclose before the learned Family Court the reason for closure of her IELTS Centre. On a direct

Court query, learned counsel for the petitioner has candidly admitted that the said fact was not mentioned by the petitioner in her petition filed under Section 125 Cr.P.C. (copy of which is not attached with the present petition). Furthermore, though it has been submitted on behalf of the petitioner that she was running the Centre only prior to marriage, however, there is nothing on record to bear out her assertion. On the contrary, perusal of impugned order reveals that learned Family Court has found that the petitioner also withheld her income tax returns; whereas the respondent/husband had duly filed his affidavit of assets and liabilities, wherein he had stated that he was studying LLB and working as a part-time Accountant to earn Rs.5,000/- per month. It is not denied that the petitioner in her cross-examination has admitted that a complaint alleging administration of poison was moved against her by the respondent. The petitioner has also concealed her educational qualification and has not revealed that she is a B.Ed.. However, in actual fact, the petitioner is MA B.Ed.Relevant findings given by learned Family Court are as under:-

> *"9. Another instance of concealment of material fact is found when in column no. 25 of her aforesaid affidavit, which requires mention of particulars of bank account, she has mentioned 'No'. As earlier noted, at the time of getting her aforesaid IELTS Center registered, she herself had mentioned the name of her banker as Punjab and Sind Bank, Kewal Patti, village Panjgrain, Kotkapura (Mark RY). In her cross-examination she further went on to disclose that she maintains an account with Punjab and Sind Bank by further telling that a credit balance of Rs.40,000/- is available in her said bank account. Even her father admitted that Harjit Kaur is having bank account with Punjab and Sind Bank.*

> *She further disclosed that she has been charging Rs.2000/ per month from each student enrolled in her aforesaid ILETS Center and the course duration was of three months. Thus against a specific requirement to disclose the bank account, she has consciously concealed it, for some obvious reasons.*
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> *She has also withheld her ITRs. On being questioned she put off the burden to her father by replying that only her father knows about her ITRs by further feigning ignorance as to whether she had been filing income tax return. Her father also failed to tell anything about income tax return being filed by Harjit Kaur."*

7. It is the litigant's bounden duty to make a full and true disclosure of facts. It is a matter of trite law, and yet bears repetition, that suppression of material facts before a Court of Law amounts to abuse of the process of the Court and shall be dealt with a heavy hand. Reliance may be placed upon **Ram Dhan v. State of Uttar Pradesh & Anr., (2012) 5 SCC 536 & K.D. Sharma v. Steel Authority of India Ltd. (2008) 12 SCC 481.**

8. Learned counsel for the petitioner is unable to controvert the above said factual and legal position.

9. The provision of section 125 CRPC is for the assistance of those wives who are unable to maintain themselves. In the present case, that is not so. Accordingly, I find that no ground is made out to interfere in the impugned order. Present petition accordingly stands **dismissed.**

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

19.03.2024 **(Nidhi Gupta)**
Sunena **Judge**

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