

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-1249-2022 (O&M)

Date of order: 01.05.2024

Harminderpal Singh

.....Petitioner(s)

Vs.

Amandeep Kaur Randhawa

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Manjot Kaur, Advocate
for the petitioner.

Mr. Amit Arora, Advocate
for the respondent.

Nidhi Gupta, J.

Challenge in the present petition filed by the husband is to the order dated 03.10.2022 passed by learned Principal Judge, Family Court, Tarn Taran, whereby in a petition filed by the respondent/wife under Section 125 Cr.P.C., the petitioner has been directed to pay interim maintenance of Rs.20,000/- per month to the respondent.

2. It is inter alia submitted by learned counsel for the petitioner that the petitioner is a Constable in the Punjab Police. He was married to the respondent on 02.02.2019. Due to temperamental differences between the parties, the respondent left the matrimonial home on 16.07.2019. No child was born out of this wedlock.

3. Learned counsel submits that no doubt, the petitioner is drawing a salary of approximately Rs.67,000/- per month as is evident from salary slip of the petitioner (Annexure P8); however, it is pertinent that the

petitioner has taken a home loan and personal loan against which he is paying instalments totalling to Rs.35,000/- per month. Accordingly, after payment of loan instalments, the petitioner is left with only approximately Rs.31,000/- per month, which is not enough for his sustenance. Learned counsel submits that the petitioner also has the additional responsibility of his old age parents.

4. Per contra, learned counsel for the respondent/wife submits that the petitioner is in arrears of Rs.6 lakh of maintenance. It is admitted that the respondent left the matrimonial home due to temperamental issues. Learned counsel further informs that the petitioner has also filed a petition under Section 9 of the Hindu Marriage Act. The petition under Section 125 Cr.P.C. is pending before the learned Family Court and is at the stage of evidence. It is further admitted that the respondent is able-bodied; and a Graduate; and she is staying with her parents.

5. I have heard learned counsel for the parties and perused the case file in great detail.

6. Broad factual matrix of the case is not denied. It has also been admitted that the respondent left the matrimonial home of her own free will and accord wherefore the petitioner filed a petition under Section 9 of the Hindu Marriage Act, 1955. Further keeping in view the fact that the petitioner has additional responsibilities as noted above; and the fact that the respondent is Graduate however, is not working; and is staying with her parents, and therefore, has no additional responsibilities, this Court is inclined to allow the present petition.

7. At this stage, reference may be made to judgment of the Hon'ble Supreme Court in case of "**Bhushan Kumar Meen v. Mansi Meen Allas Harpreet Kaur**" (SC) : Law Finder Doc Id # 547724. In the said case too, the wife albeit qualified, was not working. Accordingly, the Hon'ble Supreme Court had held that "*However, having regard to qualifications that Wife possesses, there is no reason why she ought not to be in a position to also maintain herself in future...*", and had accordingly reduced the amount of interim maintenance granted to the respondent wife.

8. Reliance may also be placed upon judgment of Hon'ble Karnataka High Court in "**Smt. Shilpashree J. M. & Others Vs. Gurumanjunatha A.S. & Others**", 2023 SCC OnLine Kar 36, Law Finder Doc ID # 2260157, wherein it has been held as under:-

"8. The records also disclosed 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 taking 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)

9. Reference may also be made to judgment of High Court of Delhi in “**Anju & Anr. Vs. Rinku Dahiya**” Law Finder Doc ID # **2349279**, wherein it has been held as under:-

*“11. We observe that in the present case, where both the spouses are equally qualified and are earning equally, interim maintenance cannot be granted to the wife under Section 24 of the Act. The object of Section 24 of the Act is to ensure that during the matrimonial proceedings under HMA either party should not be handicapped and suffer any financial disability to litigate only because of paucity of source of income. The provision for interim/pendent lite maintenance has been made only to help either spouse to sail through the litigation expenses and also to ensure that they are able to live comfortably. The proceedings under Section 24 of the Act are not intended to equalize the income of both the spouses or to give an interim maintenance which is commensurate to maintain a similar life style as the other spouse as has been observed by this Court in the case of **K.N. V. R.G MAT. APP.(FC) 93/2018 decided on 12.02.2019.**”*

(Emphasis supplied)

10. In view of the factual and legal position as noticed here in above, the present petition is **allowed**. The interim maintenance of Rs.20,000/- per month granted vide the impugned order dated 03.10.2022 is modified, and it is directed that the petitioner shall pay a sum of

Rs.5,000/- per month to the respondent by way of interim maintenance from date of filing of application by the respondent in this regard. Needless to say, amounts, if any, already paid by the petitioner shall be adjusted @ ₹5000/– per month.

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

01.05.2024
Sunena

(Nidhi Gupta)
Judge

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