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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRR (F) No.1644 of 2023  
Date of Decision: 14.05.2024

Satvinder Pal Singh

... Petitioner

Versus

Rajinder Kaur

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Sankalp Sagar, Legal Aid Counsel,  
for the petitioner.

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**MANISHA BATRA, J.**

1. The instant revision petition has been filed by the petitioner against the judgment dated 19.08.2023 as passed by the Court of learned Additional Principal Judge, Family Court, Ludhiana in Maintenance Petition bearing No.MNT/125/420/2020 titled as *Rajinder Kaur v. Satvinder Pal Singh* whereby the petition filed under Section 125 Cr.P.C. by his wife had been partly allowed and he was directed to pay a sum of Rs.4000/- per month each to the respondent-wife as well as their minor child from the date of filing of the petition, as well as against the order dated 10.07.2023 whereby right of the present petitioner to cross-examine the respondent-wife was ordered to be curtailed and lastly against the order dated 26.07.2023 thereby denying him an opportunity to lead any evidence.

2. Briefly stated, the facts of the case relevant for the purpose

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of disposal of the present petition are that the aforementioned petition under Section 125 of Cr.P.C. had been filed by the wife of the present petitioner on the ground that she was married with the present petitioner on 28.03.2003 as per Sikh rites and ceremonies. Out of the wedlock, two children had been born, the male child born on 15.03.2004 (residing with the petitioner) and the female child was born on 23.07.2009 (residing with the respondent). The respondent was harassed and treated with cruelty by the petitioner and his family members on account of demand of money and also on the ground that she had brought less dowry at the time of her marriage. She was extended threats by the petitioner and his family members and was ultimately thrown out of her matrimonial house. She had no means to maintain herself and her minor child whereas the petitioner was running hosiery business and his monthly income was more than Rs.20,000/- per month. Apart from this, he is receiving rental income of Rs.20,000/- per month and income from agricultural resources is of Rs.1 lac per annum. Despite owning substantial moveable and immoveable properties, he has neglected and refused to maintain the respondent as well as their minor girl child.

3. It is revealed from the record that the present petitioner had appeared through counsel and filed reply raising several objections and alleging that the respondent used to steal money belonging to the petitioner and send the same to her own family members. She pressurized him to shift to Ludhiana so that she could stay near her parental house. She wanted the property purchased by the petitioner in the year 2009 to be transferred to her name. The petitioner also came to know that she was

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having extra marital affair with one Balwinder Singh. He was even extended beatings by the brothers of respondent and some other persons at her behest. He had left for Malaysia in the year 2019, however he came back due to lack of opportunity of work. He denied having any source of his income and alleged that the respondent was having sufficient funds and was capable of maintaining herself as well as their child. Accordingly, the petitioner prayed for dismissal of the petition. It will not be out of place to mention here that the petitioner was directed to pay interim maintenance of Rs.4,000/- per month to respondent and additionally Rs.4000/- to their minor child. However, since he failed to pay the same, therefore his defence was struck off and he was also not allowed to lead any evidence by the learned Family Court. The Respondent adduced evidence and after perusing the same and hearing the contentions raised by both the sides, the learned Family Court passed the impugned order.

4. The present petition has been filed on the grounds and it has been argued by learned counsel for the petitioner that the impugned orders dated 10.07.2023, 26.07.2023 and judgment dated 19.08.2023 are not sustainable in the eyes of law. The learned Family Court gravely erred in passing the order dated 10.07.2023 whereby the right of the present petitioner to conduct cross-examination of the respondent was ordered to be curtailed due to non-payment of the arrears of amount of maintenance and the evidence of the respondent was closed. It is further argued by him that even the order dated 26.07.2023 whereby he had been denied opportunity to lead any evidence merely in view of the fact that arrears of

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more than Rs.2 lacs were to be paid by him, can also not be stated to be passed as per law. The learned Court erred further by directing to pay maintenance for the minor child of the parties despite the fact that she had not even been impleaded as a party to the petition nor any maintenance had been claimed by the respondent for her i.e. their minor child. The learned Family Court had passed the final order dated 19.08.2023 while relying upon the un rebutted evidence of the respondent and without taking into consideration pleas as taken by the present petitioner and without giving any opportunity to him to cross-examine the respondent or to lead his own evidence. Therefore, it is argued that the petition deserves to be allowed.

5. I have heard learned counsel for the petitioner at considerable length and have perused the record.

6. It is own case of the petitioner and it has also been revealed from a perusal of the order dated 10.07.2023 copy of which has been placed on record that as on that date, an amount of Rs.2 lacs was payable by him to the present respondent on account of arrears of interim maintenance but no payment had been made by him till that date and yet he made prayer for permitting him to cross-examine the respondent. The learned Family Court had dismissed the said application in view of the fact that the petitioner had not complied to pay any arrears, nonetheless, an opportunity was granted to him to lead his evidence subject to payment of aforesaid arrears of the interim maintenance but since he failed to make any payment, therefore, the said right to lead evidence had also been curtailed as on 26.07.2023. The learned Family Court was very

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much justified in denying opportunity to the petitioner to cross-examine the respondent as well as to lead his evidence due to non-payment of amount of arrears by him and as such, no fault can be found with the orders passed by the learned Family Court on 10.07.2023 and 26.07.2023 respectively.

7. Then, while passing the order dated 19.08.2023, the learned Family Court had considered the contentions raised by both the sides. Since there was no evidence submitted by the petitioner on record in support of the pleas as taken by him in the reply so filed by him and the evidence led by respondent-wife had remained unrebutted and unchallenged with regard to the pleas taken by her, therefore, considering the same, the impugned order had been passed. The amount of maintenance as directed to be paid by the present petitioner cannot be stated to be excessive rather the same is the bare minimum for the purpose of meeting day to day requirements of the respondent and her daughter. The petitioner has also failed to produce any material on record before this Court to prove that the respondent was capable of maintaining herself and their female child on that date and even today. A perusal of the impugned order dated 19.08.2023 makes it clear that the petitioner had been granted several opportunities to pay the arrears of amount of maintenance and the learned Family Court even observed that he was trying to put the justice delivery system in limbo and had not paid anything to the present respondent. It is the moral as well as legal obligation of the petitioner to maintain his wife and their child. It is well settled proposition of law that a wife is entitled to maintain a standard of

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living which is neither luxurious nor penurious and is also entitled to lead a decent life yet at par with the dignity and status of the husband and keeping in view the commitment of the petitioner to meet the needs and requirements of food, shelter and medical treatment etc. of his wife as well as his child. Reliance in this context be placed upon **Bhagwan v. Kamla Devi**, AIR 1975 SC 83 and **Chaturbhuj v. Sita Bai**, AIR 2008 Supreme Court 530.

8. So far as the plea as taken by the petitioner that since his daughter had not been impleaded as a party to the petition, therefore, no maintenance qua her could be claimed by respondent is concerned, it may be stated that the well settled proposition of law is also that no prejudice can be caused to the parties, if maintenance is ordered to be given to the children not impleaded or arrayed in the petition in view of Section 125 (1) (d) of Cr.P.C. Reliance in this regard can be placed upon '**Subash Darjee v. Basanti Darjee**, 2016(65) Orissa Cri. R. 683' wherein similar observations were made. Therefore, no illegality or infirmity can be stated to have been committed by the learned Family Court by directing the petitioner to pay maintenance @Rs.4000/- per month to his minor daughter as well.

9. Keeping in view the facts and circumstances of the case, as discussed above, I am of the considered opinion that the learned Family Court had rightly directed the petitioner to pay an amount of Rs.4,000/- each to the respondent-wife and his minor daughter and the aforementioned amount cannot be stated to be excessive and inconsistent with the status of the petitioner and is bare minimum and commensurate

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with his income. Accordingly, finding no reason to interfere with the impugned order, the same is hereby affirmed and the revision petition is dismissed.

14.05.2024  
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(MANISHA BATRA)  
JUDGE

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