

Neutral Citation No.2024:PHHC:052346

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR (F) No.1695 of 2023 (O&M)

Date of decision: 18.04.2024

Reserved on: 26.02.2024

Muniram

... Petitioner

Vs.

Pinki and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mahavir Singh Sharma, Advocate,
for the petitioner.

None for the respondents.

MANISHA BATRA, J.

1. The instant revision petition has been filed by the petitioner against the order dated 10.03.2022 passed by the Court of learned Additional Principal Judge, Family Court, Gurugram in maintenance petition No.MNT125/569/2018 titled as *Smt. Pinki and others v. Muni Ram*, whereby, maintenance amount to the tune of Rs.4000/ per month to his wife and Rs.2000/- each per month to his minor children had been directed to be paid by him.

2. Facts relevant for the purpose of disposal of the instant petition are that the aforementioned petition under Section 125 of Cr.P.C. had been filed by the respondents who are wife and two children respectively of the present petitioner alleging therein that the respondent No.1 got married with the petitioner on 28.06.2002. The minor respondents were

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born out of the wedlock. The petitioner and his family members used to subject the respondent No.1 to cruelty and harassment on account of bringing insufficient dowry and she was physically assaulted by them. Ultimately, she was turned out of her matrimonial house along with her two children in March 2018 and was residing separately. While claiming that she was unable to maintain her children and herself whereas the petitioner was earning a sum of Rs.50,000/- per month and also getting rental income and his total income is Rs.70,000/- per month and that he had neglected and refused to maintain them, she prayed for directing him to pay maintenance for their subsistence.

3. It has come on record that the present petitioner had initially appeared in response to the notice of the petition filed by the respondents and sought time to file reply. However, he subsequently absented himself and was proceeded against ex parte vide order dated 28.05.2019. In ex parte evidence, the respondent No.1 examined herself and her father besides placing reliance upon certain documents. On considering the contentions raised by learned counsel for the respondents and appraising the evidence produced on record, the impugned order was passed ex parte by learned Family Court thereby directing the petitioner to pay the aforementioned amount as maintenance to the present respondents.

4. The impugned order dated 10.03.2022 has been challenged by the petitioner mainly on the grounds that he could not put up appearance on 28.05.2019 and was proceeded against ex parte on that date, as he was under the impression that his wife had withdrawn the petition filed

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against him and there was no need for his going to attend the proceedings. The next plea which has been taken by him is that the learned Family Court did not appreciate the evidence produced on record in proper perspective and ignored the fact that the respondent-wife was professionally qualified and was working in a famous company at Rohini and was earning a sum of more than Rs.1 lac per month and was fully capable to maintain herself and her children whereas the petitioner who is suffering from several health challenges is not earning a sum of more than Rs.5,000/- per month. Another plea has been taken to the effect that his son i.e. the respondent No.2 is staying with him and hence is not liable to make payment of any maintenance qua him. Learned counsel for the petitioner has argued that the impugned order dated 10.03.2022 is, therefore, liable to be set aside in view of the circumstances as explained above, the petition filed by the petitioner deserves to be accepted and the petition filed by the respondents seeking maintenance is liable to be dismissed.

5. It is relevant to mention here that notice of this petition was sent to the respondents but none has appeared on their behalf despite being served.

6. I have heard learned counsel for the petitioner at considerable length and have gone through the record.

7. On a scrutiny of the material placed on record, it is revealed that the respondent No.1-wife for herself as well as on behalf of her two minor children had filed petition under Section 125 of Cr.P.C. making

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prayer for grant of maintenance by pleading that she was unable to maintain herself and her children. The present petitioner had appeared before the Family Court but when time was granted to him to file reply, he absented himself and was proceeded against ex parte. Though in this revision petition, he has submitted that he came to know about the order dated 28.05.2019 only on 30.04.2022 but it is also the stand taken by him that he did not appear after 28.05.2019 as he was under the impression that his wife had withdrawn the case. A plea is also taken by him in the revision petition that he never received notice of the petition. These pleas being contradictory to each other are liable to be rejected. The position that emerges is that the petitioner had appeared in the proceedings initiated by his wife and children under Section 125 of Cr.P.C. but had chosen to absent himself and was proceeded against ex parte vide order dated 28.05.2019. Interestingly and strangely, he has not chosen to challenge the order dated 28.05.2019 at all either by filing any application or petition before the learned Family Court or even in this revision petition.

8. Further, another ground for challenging the final order dated 10.03.2022 is also such which cannot be accepted. As argued by him, the learned Family Court did not take into consideration the fact that his wife was capable of maintaining herself as she was working in a reputed company, was earning a sum of Rs.1 lac and also that the Family Court ignored that his son is residing with him. None of these pleas were obviously taken before the learned Family Court as the petitioner was

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proceeded against ex parte in that case. The petitioner could have given some reasonable explanation qua his absence from joining the proceedings initiated under Section 125 of Cr.P.C. which culminated into passing of the impugned order. However, no explanation what to say of reasonable explanation has come on record to this effect. Rather, the grounds of challenge are such which could have been taken by the petitioner only if he would have contested the petition filed by his wife and children and had taken these pleas at that time and would have led evidence to prove those grounds. As such, I see no reason to interfere with the impugned order as passed by learned Family Court. Accordingly, the petition is dismissed.

9. Miscellaneous application(s), if any, also stand disposed of.

18.04.2024	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No