

118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-1726-2023 (O&M)
Date of Decision: 07.02.2024

SUBHASH

.....PETITIONER

Vs.

MONIKA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Paramjeet Phor, Advocate,
for the petitioner.

HARPREET KAUR JEEWAN J. (ORAL)

1. Challenge in the present Criminal Revision Petition is to the order dated 10.10.2023 passed by learned Principal Judge, Family Court, Sonipat, whereby the petitioner-husband has been directed to pay a sum of ₹10,000/- per month as maintenance to respondent-wife under Section 125 Cr.P.C.

2. Learned counsel for the petitioner contends that the petitioner is an employee in ITBP as a constable and getting ₹35,000/- per month. The petitioner has not refused to maintain the respondent-wife, rather the respondent-wife has willfully left her matrimonial home because she had illicit relations with her brother-in-law ('jija') before the marriage and the same was even continued even after the marriage. He further submits that the respondent-wife used to say that she has performed marriage with the petitioner only for the sake of marriage and keeping in view the fact that he is an employed person. The mother of the petitioner is 70 years old and also handicap and also suffering from cancer. He has to spend an amount of

₹40,000/- per month on her treatment. The Family Court has not properly appreciated the evidence and facts on record while awarding maintenance to the respondent-wife. It is further contended on behalf of the petitioner that the respondent is also a working lady and knows the work of stitching and is earning ₹20,000/- per month. The maintenance amount awarded by the Family Court, Sonipat, is excessive and on a higher side whereas, the earning of the petitioner is meager, as such, prayer has been made for setting aside the order passed by the Family Court.

3. Keeping in view the facts and circumstances of the case, issuance of notice to the respondent is dispensed with.

4. As per the paper book, the respondent-wife filed a petition under Section 125 Cr.P.C. with the contentions that marriage between the parties was solemnized on 09.05.2016. However, no child was born out of the said wedlock. The parents of the respondent-wife gave a lot of dowry articles to the petitioner-husband and his family members out of their capacity. However, the petitioner raised a demand of motor-cycle while stating that he is an employee. When the respondent-wife tried to persuade the petitioner that her father is not in a position to fulfill their demands, he gave severe beatings to her and turned out of her matrimonial home. Several times, '*panchayats*' were conveyed and upon its intervention, the respondent was brought back and lastly on 07.06.2019, she was turned out of her matrimonial home after giving again severe beatings. It was further contended that the respondent-wife does not own or possess any movable or immovable properties. She has no independent source of income whereas the

petitioner-husband is an employee in the ITBP but he has intentionally refused to maintain his wife-respondent.

5. The petitioner filed reply to the said petition and contested the petition on various grounds. However, the marriage between the petitioner and the respondent was admitted. It was contended that the respondent-wife is a lady of quarrelsome nature. She used to pick up quarrels with the petitioner and his family members on trivial issues. No dowry articles have been given at the time of marriage. The allegations of demand of motor-cycle, harassment and humiliation were denied. It was contended that the respondent had an illicit relationship with her brother-in-law ('jija') prior to the marriage and the same was continued even after marriage and therefore, she left her matrimonial house as per her own will. On several occasions, she used to leave the matrimonial home while stating that she is going to her parental home but she was not found there. She is living an adulterous life with her brother-in-law and also with some friends and as such, she has treated the petitioner with cruelty of highest decree and is not entitled to any maintenance. However, it was admitted that the petitioner is employed in ITBP. The total salary as ₹35,000/- per month was denied. It was alleged that there are many deductions from the said salary and his salary is not more than ₹25,000/- per month.

6 In the evidence, the respondent-wife herself appeared as PW-1 whereas the petitioner appeared as RW-1 and also relied upon the documents Annexures R-1 to R-5.

7. The Family Court has considered the oral statement submissions of both the parties. This fact was also considered that there was a matrimonial dispute between the parties, as such, the FIR No. 13, dated 29.1.2020 was got registered by the respondent-wife under Sections 323, 406 and 498-A of the IPC which has been relied upon by the petitioner himself as Mark R-5. Relying upon the statement of the petitioner and the aforesaid facts, the Family Court observed that there was a great matrimonial differences between the parties. The respondent-wife cannot be denied maintenance on the ground that she is living separately. It was further observed that the petitioner is the husband of the respondent, as such has legal and moral duty to maintain the respondent-wife.

8. The Family Court has also considered the contentions of the petitioner-husband that the respondent-wife is having adulterous relations with his brother-in-law and friends. It was observed that except for the affidavit of the respondent there is no other material placed on record to prove the said allegations, as such the Family Court did not accept the said contentions.

9. On the quantum of awarding the maintenance, the Family Court has considered the contentions raised by the petitioner-husband that his wife is working as a Clerk in the private company and earning ₹20,000/- per month. The said allegations were found to be unproved since the petitioner could not lead any documentary evidence and the wife has categorically stated in the affidavit that she is not having any independent source of income. Considering the salary slips for the month of April 2021, March 2021, April 2022, May 2022, June 2022, August 2022 and September 2022,

the net average salary of the petitioner was treated as ₹44,000/- per month.

The contentions that petitioner is having the liability to maintain his parents as well on the basis of the copy of the order Annexures R-1 and R-2 were also considered, as such, the respondent-wife was awarded maintenance for a sum of ₹10,000/- per month.

10. The order passed by the Family Court is well reasoned. The grounds of adultery alleged by the petitioner are not supported with any other evidence except the oral statement of the petitioner. The respondent-wife is not working. The allegations that she is working in a private company are not proved with any documentary evidence. The respondent-wife has even lodged FIR against the petitioner-husband under Section 323, 406 and 498-A of the IPC. In such circumstances, the petitioner has the liability to maintain his wife. It is proved that the petitioner is having means as he is working and earning salary whereas the respondent is an unemployed.

11. The Hon'ble Apex Court, in the case of "**Jagannath Choudhary vs. Ramayan Singh**"; **2002(2) R.C.R. (Criminal) 813**, has held that the object of the revisional jurisdiction, as envisaged under Section 401 Cr.P.C. was to confer upon superior criminal courts a kind of paternal or supervisory jurisdiction, in order to correct miscarriage of justice arising from misconception of law, irregularity of procedure. Where the Court concerned does not appear to have committed any illegality or material irregularity or impropriety in passing the impugned order, the revision cannot succeed.

12. Keeping in view the aforesaid discussion, no irregularity or illegality has been pointed out in the impugned order dated 10.10.2023. as

such, no ground is made out for interference in the well-reasoned order passed by the Family Court, Sonipat. Consequently, the present petition stands dismissed.

13. Pending miscellaneous application (s), if any, shall also stand disposed of.

February 07, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes/No
Whether reportable	Yes/No