

**CRR(F)-1796-2023 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR(F)-1796-2023 (O&M)
Reserved On: 08.08.2024
Decided On: 12.08.2024****PUNEET KUMAR****...Petitioner****Versus****LISHA AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Gaurav Dutta, Advocate
for the petitioner.Mr. G.S. Sandhu, Advocate
for the respondents.**********HARPREET SINGH BRAR, J.**

1. The prayer in the present revision petition is for setting aside the impugned order dated 20.11.2023 passed by learned Additional Principal Judge, Family Court, Karnal, whereby, application filed by the petitioner under Section 126 Cr.P.C. for rejection of petition filed by respondents under Section 125 Cr.P.C., was dismissed.

2. The facts, tersely put, are that the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance from the petitioner (Annexure P-3). Subsequently, the petitioner moved an application under Section 126 Cr.P.C. (Annexure P-1) seeking rejection of the aforesaid petition on grounds of lack of jurisdiction. The learned Court below, by way of the order dated 20.11.2023,

dismissed the application filed by petitioner by upholding that the marriage



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between the concerned parties was solemnized within the jurisdiction of the learned Family Court. Aggrieved, the petitioner has approached this Court by way of instant petition.

3. Learned counsel for the petitioner inter alia contends that respondent-wife is a permanent resident of Pipli, District Kurukshetra and is also residing therein at present. Whereas, she has filed the petition under Section 125 Cr.P.C. at Karnal solely to harass the petitioner. He also argues that learned Additional Principal Judge, Family Court, Karnal has erred in dismissing the application of the petitioner as place of marriage is irrelevant for the purpose of deciding jurisdiction under Section 125 Cr.P.C. It is also contended that in the petition under Section 125 Cr.P.C, respondent-wife mentioned her address as Taraori, District Karnal but as per her Aadhar Card (Annexure P-4), she is a resident of District Patiala, Punjab. Further, the respondent-wife has been enjoying government benefits by showing herself to be a resident of Kurukshetra. It is also not the case of respondent-wife that she had last resided with the petitioner in Taraori, District Karnal. Although, she had stated in her application made to SHO, Police Station Taraori, that she had relocated there to her paternal aunt's house but the same is a flying visit and in no way can the word 'resides' be equated with flying visits as per the ambit of Section 125 and 126 Cr.P.C. To buttress his arguments, he places reliance on the judgements rendered in ***Mst. Jagir Kaur and Another vs. Jaswant Singh, 1963 AIR(SC) 1521.***

4. I have heard the learned counsel for the petitioner and perused the record of the case with his able assistance. It transpires that before her marriage,

respondent-wife was residing with her maternal uncle at Taraori, Karnal and is



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currently residing there along with her minor daughter (respondent no.2).

Further, a letter was issued by Municipal Commissioner of Taraori, Karnal wherein it was mentioned that respondent-wife was married to the petitioner at Taraori itself and her family members have been residing in a rented accommodation at Taraori, Karnal. Respondent wife has also filed complaint under Section 12 D.V. Act and another under Section 498-A IPC and the petitioner has been facing trial therein. I have also gone through the judgement relied upon by the learned counsel for the petitioner and as per the opinion of this Court, it does not provide succour to his case since there is sufficient material on record which shows that the respondent-wife is a resident of Karnal and has rightly knocked on the doors of the Family Court situated there apropos this case.

5. Delhi High Court has made perspicuous observations in **Shikhar Goel vs. Robina Kaushik and Another, 2021 SCC OnLine Del 4989** which are quite pertinent to the case at hand and the same are as follow: -

“12. Section 125 of the Code of Criminal Procedure pertains to the Maintenance that is to be given by a man to their wife, parents and children in order for them to sustain themselves. It is a tool for social justice enacted to ensure that women and children are protected from a life of potential vagrancy and destitution. The Supreme Court has consistently upheld that the conceptualisation of Section 125 was meant to ameliorate the financial suffering of a woman who had left her matrimonial home; it is a means to secure the woman's sustenance, along with that of the children, if any. The statutory provision entails that if the husband has sufficient means, he is obligated to maintain his wife and children, and not shirk away from his moral and familial responsibilities.

13. In Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353, the Supreme Court examined the underlying purpose as well as social context of Section 125 of the Code, and observed as follows:



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“2. Be it ingeminated that Section 125 of the Code of Criminal Procedure was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home for the reasons provided in the provision so that some suitable arrangements can be made by the court and she can sustain herself and also her children if they are with her. The concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created where under she is compelled to resign to her fate and think of life “dust unto dust. It is totally impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able-bodied. There is no escape route unless there is an order from the court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.”

14. Therefore, while adjudicating matters pertaining to this statutory provision, it must be borne in mind that the same was enumerated to further the cause of social justice and that the interpretation of this Section should be done in a manner to prevent a situation wherein the wife or children are inadvertently nudged into vagrancy and destitution. It is meant to provide a speedy remedy for the supply of food, clothing and shelter to the deserted wife.

15. In this context, while deciding a matter of maintenance, it is important for the Courts to bear in mind that technicalities such as jurisdiction



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should not impede the object that is sought to be achieved by a provision such as Section 125 Cr.P.C. which is essentially a social welfare legislation. Therefore, the Court should endeavour to ensure that the wife and/or child of the husband are not left to destitution and vagrancy if they do not have the means to maintain themselves.”

6. In view of the above discussion, this Court finds no reason to interfere with the impugned order dated 20.11.2023 passed by learned Additional Principal Judge, Family Court, Karnal. Hence, the present revision petition stands dismissed.

7. Pending miscellaneous application(s), if any, shall stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

12.08.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No