

107 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRR(F)-1804-2023 (O&M)

Date of decision: 04.01.2024

AMANDEEP SINGH

.....Petitioner

versus

MANDEEP KAUR AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present criminal revision petition filed by the petitioner is for setting aside the order dated 06.10.2023 passed by the Family Court, Patiala whereby, the petitioner has been directed to pay a sum of Rs.15,000/- per month to respondent No.2, who is the minor son of the petitioner, during the pendency of the petition filed under Section 125 Cr.P.C.

2. Learned counsel for the petitioner contends that marriage of the petitioner was solemnized with respondent No.1 on 14.11.2016 and out of the wedlock, respondent No.2 was born on 28.12.2017. Respondent No.1-wife has left her matrimonial house without any reasonable cause and has also deprived the petitioner of her company as a wife. Respondent No.1-wife is having sufficient income to maintain herself and her son as she is drawing a gross salary of Rs.1,05,130/- per month whereas, gross salary of the petitioner-husband is Rs.85,300/-. The petitioner-husband also has the liability to take care of his old parents, who are dependent upon him. As such, awarding of interim maintenance @ Rs.15,000/- per month to respondent No.2-minor child, is on a very higher side as the age of respondent No.2 is only 5 years. The Family Court has not taken into

consideration the material facts on record. As such, the impugned order is liable to be set aside.

3. I have considered the aforesaid contentions and perused the paper book.

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

5. Respondent No.1-wife has not concealed any fact at the time of filing of the petition under Section 125 Cr.P.C. She has disclosed that she is working in Punjab and Sind Bank, Patiala. Marriage between the petitioner and respondent No.1 is admitted. The birth of respondent No.2-minor child, out of the wedlock, is also admitted by both the parties. The respondents herein had filed a petition under Section 125 Cr.P.C. with the allegations that the petitioner-husband had been treating respondent No.1-wife with cruelty and they were not satisfied with the dowry articles given by respondent No.1-wife in the marriage and they used to pressurize her to bring a sum of Rs.5,00,000/- from her parents. It is further alleged by respondent No.1-wife that in the month of June 2019, when she joined her duty at Mohali on promotion, the petitioner-husband stopped talking to her and he even did not attend her phone calls. She has further alleged that on account of her posting, respondent No.1-wife is residing in Mohali whereas, the petitioner-husband is residing at Patiala. Custody of the minor child is with respondent No.1-wife. The Family Court had observed that although there are allegations and counter-allegations raised by the parties in respect of conduct of each other, but the said allegations will have to withstand a strict test of evidence. While taking into consideration the affidavit of assets and liabilities furnished by respondent No.1-wife and also considering the admission of the petitioner-husband, the Family

Rs.85,300/- per month and after deductions, he is getting net salary of Rs.73,812/- per month whereas, the gross salary of respondent No.1-wife is Rs.1,05,130/- per month and after deductions of installments of loan etc., she is getting a net salary of Rs.63,324.31/- per month.

6. The Family Court has not awarded any maintenance to respondent No.1-wife. Only a sum of Rs.15,000/- per month has been awarded as maintenance to respondent No.2-minor child. No doubt there is a matrimonial dispute between petitioner and respondent No.1, but the minor child is the responsibility of the parents and the petitioner, who is the father of the minor child, cannot escape his liability to maintain the minor son on account of having the liability to take care of his parents. Considering the financial status of the parents of respondent No.2-minor child, the Family Court has rightly awarded the interim maintenance to the tune of Rs.15,000/- per month to the minor child. The minor child is going to start his school. His educational expenses and other personal day-to-day needs require finances which has been taken care of by the Family Court while awarding the interim maintenance. Moreover, the petitioner will get an opportunity to lead evidence at the time of disposal of the petition under Section 125 Cr.P.C. on merits. At this stage, there is nothing on record to suggest any irregularity or illegality in the impugned order.

7. Keeping in view the facts and circumstances of the present case and keeping in view the intent of the provision of Section 125 Cr.P.C. which is to prevent destitution and vagrancy of the respondent No.1-wife, I find no illegality in the impugned order 06.10.2023 passed by Family Court, Patiala, especially when the gross salary of the petitioner-husband is Rs.85,300/- per month and the Family Court has awarded merely a sum of Rs.15,000/- per month as maintenance to

respondent No.2-minor child. As such, the present criminal revision petition stands dismissed.

8. All the pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

04.01.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No