



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR (F) No.1811 of 2023
Date of Decision: 28.05.2024

Raj Singh

... Petitioner

Versus

Ms. Jyoti

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Dinesh Singh Rawat, Advocate,
for the petitioner.

Mr. Akshay Jindal, Advocate,
for the respondent.

MANISHA BATRA, J.(Oral)

1. The present petition has been filed by the petitioner-husband under Section 397 read with Section 401 of Cr.P.C. challenging the order dated 28.08.2023 passed by the Court of Principal Judge, Family Court, Panchkula in maintenance petition bearing No.MNT/118/2020 titled as *Jyoti v. Raj Singh* as filed under Section 125 of Cr.P.C. whereby interim maintenance to the tune of Rs.10,000/- per month was directed to be paid to respondent-wife.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned petition under Section 125 of Cr.P.C. has been filed by the respondent-wife on the pleas that she got married with the present petitioner on 15.09.2018. No child was born out of the wedlock. Since the very inception of her marital life, the

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petitioner and his family members started torturing, humiliating and physically abusing her on account of demand of dowry. Her brother-in-law and father-in-law even hatched conspiracy to commit rape upon her but somehow she managed to rescue herself. She tried to settle herself down in her matrimonial home but was not allowed to do so. She had lodged a complaint on 11.03.2020 before the police. The matter was compromised and the petitioner had assured to keep her respectfully in a separate rented accommodation. She alleged that, however, the petitioner never came to take her back to her matrimonial house. While alleging that she was having no source of income and was not capable of maintaining herself, she prayed for directing the petitioner to pay maintenance to her by claiming that he was working as a Manager in Kotak Mahindra and was fetching salary @Rs.80,000/- per month and was also having income from agricultural property. Along with the main petition, the respondent also filed an application for grant of interim maintenance making prayer to grant the same during the pendency of the petition.

3. The petitioner filed reply to the main petition as well as to the application for grant of interim maintenance wherein he admitted the relationship between the parties but submitted that he was jobless since 28.12.2020 due to the fact that he was involved in litigation by the respondent-wife in several cases and while claiming that he was not earning anything, he prayed for dismissal of the petition.

4. The parties were directed to file their respective affidavits giving details of their income, assets and expenditure which were so filed by them. After considering the contentions as raised by both the sides and

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appraising the material placed on record, the learned Family Court vide the impugned order dated 28.08.2023 directed the petitioner to pay interim maintenance to the tune of Rs.10,000/- per month during the pendency of the petition. Aggrieved by the same, the present petition has been filed by the petitioner-husband.

5. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as while passing the same, the learned Family Court ignored the fact that it was the respondent-wife who had left her matrimonial house without any rhyme and reason and was staying away from him so much so that he had even filed a petition under Section 9 of Hindu Marriage Act for restitution of conjugal rights for bringing her back. She had involved him in litigation by lodging FIR under Sections 323, 498-A and 506 of IPC against him and also by filing petition under Section 125 Cr.P.C. Her affidavit showed that she was earning a sum of Rs.3,000/- per month from LIC and Rs.3,000/- per month from Kotak Mahindra Company and was capable of maintaining herself and the affirmation made by the petitioner in the affidavit proved that he was not earning anything and was not in a position to maintain himself. The learned Family Court also committed an error for directing to pay the maintenance from the date of filing of the application and not from the date of passing of the impugned order. Therefore, it is argued that the impugned order be set aside, the revision petition be accepted and he be held not liable to make payment of any interim maintenance amount to the respondent-wife.

6. Per contra, learned counsel for the respondent has argued that the petitioner owned a substantial share in the ancestral agricultural land

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owned by him and was deriving income of a sum of Rs.50,000/- per month from the same, which he had concealed. He is an able bodied young man and is supposed to maintain the respondent who is his legally wedded wife. He himself has admitted that he is earning a sum of Rs.5,000/- per month from agricultural sources whereas he has shown his rent of the premises as taken by him to be Rs.6500/- per month without giving any explanation as to how he could pay rent beyond his income.

7. It is also argued that the income tax returns of the petitioner from the year 2019-20 till the year 2021-22 proved that he had intentionally shown his income to be reducing without giving any explanation for the same and, therefore, it is argued that there is no merit in the petition and the same is liable to be dismissed.

8. I have heard learned counsel for both the parties at considerable length and have gone through the record carefully.

9. The relationship between the parties is not in dispute. It has also been come on record that they are living separately since March 2020. It has also come on record and the respondent-wife admitted that she had been receiving remuneration @Rs.3,000/- per month from Kotak Mahindra Life Insurance up to January 2022. The petitioner is an able bodied person. It is admitted by him that he owns a share in the ancestral property and also stated that he had taken personal loan. In his affidavit, he showed his monthly expenses to be Rs.6500/- as house rent. Though, the material which has been produced on record at this stage does not show that he is earning a sum of Rs.80,000/- per month by doing some job and Rs.50,000/- per month from his ancestral property and other income from acting/singing songs in

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film as claimed by respondent. However, being an able bodied young and educated person, it is expected from him that he is capable of earning. It is also his moral as well as legal obligation to maintain his wife. There is nothing on record to show that the respondent-wife is still earning a sum of Rs.3000/- per month as remuneration. However, even it it is presumed to be so, still this amount cannot be stated to be sufficient for meeting day to day basic requirements of the respondent-wife of food, clothing, lodging, medical expenses etc. in these days of ever-rising prices of basic commodities. More so, she is entitled to lead a life of dignity and of same status when she was lived with her husband and who admittedly at that time was earning a sum of Rs.80,000/- per month. The learned Family Court after taking all these points into consideration, had directed the petitioner to pay an amount of Rs.10,000/- per month to the respondent as interim maintenance during the pendency of the petition from the date of filing of the application and had rightly observed that the aforementioned amount would be adjusted or set off while determining any further amount to be determined in the subsequent proceedings. No manifest injustice is shown to have been committed by learned Family Court by passing the impugned order which may warrant interference. Accordingly, the petition stands dismissed.

28.05.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No