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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***********CRR(F)-746-2025 (O&M)
Date of Decision: 22.05.2025**

Sonu

..... Petitioner

Versus

Jyoti

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURIPresent: Mr. Kartar Singh Malik, Advocate
for the petitioner.**********JASGURPREET SINGH PURI, J. (ORAL)****CRM-20559-2025**

The present application has been filed for condonation of delay of 8 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 8 days in filing the revision petition, is hereby condoned.

Main case:

1. The present revision petition has been filed by the petitioner/husband challenging the impugned order dated 06.02.2025 passed by learned Additional Principal Judge, Family Court, Rohtak vide which an application filed by the respondent-wife was allowed by granting her interim maintenance to the tune of ₹6,000/- per month and litigation expenses of ₹11,000/- and interim maintenance of ₹2,000/- per month has been granted to the minor child.

2. Learned counsel for the petitioner submitted that learned

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Additional Principal Judge, Family Court has erroneously granted interim maintenance to the respondent-wife because the petition under Section 125 Cr.P.C. was not even maintainable against the present petitioner. In this regard, he submitted that although the petitioner is serving as a Conductor in the Haryana Roadways and is drawing a salary but at the same time the respondent-wife is not his legally wedded wife. He further submitted that the respondent was earlier married to one Mukesh son of Sat Narayan and the said marriage between them has not been dissolved till date. Therefore, no such maintenance could have been claimed from the present petitioner. He also submitted that the respondent is also running a boutique and was earning handsome amount. With regard to the salary of the petitioner, he submitted that as per his salary slip for the month of April, 2023-24 he was getting salary of ₹31,497/- per month after deductions and he is also maintaining his daughter, namely, Shreya from his earlier wife who is of the age of 8 years and paying her school fee and also referred to judgment of Hon'ble Supreme Court in ***Criminal Appeal No.515 of 2025*** arising out of ***SLP (Criminal) No.7660 of 2017*** titled as "**Smt. N. Usha Rani and another Vs. Moodududla Srinivas**" **2025(2) RCR (Civil) 1**, decided on 30.01.2025 in this regard. He submitted that in this way the respondent was not entitled for the grant of interim maintenance, therefore, the impugned order is liable to be set aside.

3. I have heard the learned counsel for the petitioner.

4. A perusal of the impugned order would show that the factum of marriage between the petitioner and the respondent is not in dispute. It is also not in dispute that out of the wedlock there had been birth of a female child, namely, Kashish. Now both the parties are living separately. As per

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the affidavits for declaration of assets and liabilities the respondent-wife has so stated that she has no source of income and was residing along with her minor daughter separately from her husband in a rented house. So far as the petitioner is concerned, he is stated to be working as a Conductor in Haryana Roadways and his income is stated to be ₹33,912/- per month and after deduction his income is stated to be ₹30,691/- per month. As per the salary slip of the petitioner-husband of January, 2024-25 his gross salary is ₹39,518/- per month and after deduction his net salary is ₹35,747/- per month. So far as the allegation made by the petitioner against the wife pertaining to her earning from boutique is concerned, no cogent evidence was placed on record to prove this fact.

5. In this way, while considering the grant of interim maintenance to the respondent, learned Additional Principal Judge, Family Court, Rohtak has considered the income of both the parties. The respondent-wife having no source of income at all and the petitioner-husband being a Conductor in Haryana Roadways was having an income of ₹35,747/- per month as per his salary slips.

6. So far as the argument raised by learned counsel for the petitioner with regard to the fact that the respondent-wife was earlier married and the same has not been dissolved and therefore, the respondent-wife is not entitled for grant of interim maintenance is concerned, learned Family Court has considered the aforesaid aspect as well. Learned Additional Principal Judge, Family Court has referred to judgment passed by the Chhattisgarh High Court in ***Criminal Revision No.755 of 2021*** titled as **“Ashok Srivastava Vs. Anju Samudri Shrivastava”** decided on 12.10.2022 wherein it was held that even if there was second marriage of the wife and



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the earlier marriage was not dissolved in accordance with law but the husband was well aware of the fact regarding her earlier marriage which was not ended vide a valid divorce decree he is estopped from raising plea that the second marriage was invalid.

7. A perusal of the Para No.9 of the impugned order would show that when the petitioner-husband filed reply in the application for grant of interim maintenance he has admitted that it was the second marriage of the parties to the petition and rather in a divorce petition filed by the petitioner under Section 13-A of the Hindu Marriage Act reveals that he has clearly mentioned that it was the second marriage of both the parties and therefore, it cannot be said that the petitioner-husband was not aware of the first marriage of the respondent.

8. Learned Additional Principal Judge, Family Court has also referred to judgment of Hon'ble Supreme Court in ***Smt. N. Usha Rani and another case (Supra)*** wherein it was held that a woman is entitled to claim maintenance under Section 125 Cr.P.C. from her second husband even if her first marriage was not legally dissolved and that a formal decree of dissolution of marriage was not mandatory provided that she is *de facto* separated from her first husband and not deriving any rights or entitlement from her first marriage. In the present case, it is not the case of the petitioner-husband that the respondent-wife is still residing with her earlier husband or that they are not separated and rather it has come on record that the petitioner-husband was aware of the first marriage of the respondent-wife and the petitioner-husband was also earlier married and in this way both the parties were earlier married to someone else. However, the relationship of marriage between the parties and the fact that a minor child

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was born out of the wedlock is not in dispute. Therefore, this Court is of the considered view that such a ground taken by learned counsel for the petitioner will not be sustainable while challenging an order by which only an interim maintenance has been granted that too to the tune of ₹6,000/- per month for the wife and ₹2,000/- per month for the minor girl child wherein the respondent-wife is having no source of income and having the care and custody of the minor girl child.

9. Even otherwise also the challenge in the present petition is to an order by which only an interim maintenance has been granted and the scope of the present Revision petition would be very limited for interference in the order for grant of interim maintenance.

10. The interim maintenance is granted to a wife and a minor child for sustaining livelihood till the time the petition under Section 125 Cr.P.C. is decided. The amount for interim maintenance which has been fixed by learned Family Court is also not on the higher side and it is only ₹8,000/- per month i.e. ₹6,000/- to the wife and ₹2,000/- to the minor daughter. Considering the cost of living in the present days and the inflationary tendencies, the same cannot be said to be on the higher side. The filing of the present Revision Petition by the husband against the wife challenging the interim order of maintenance is vexatious litigation at the instance of husband against the wife with a motive to perpetuate litigation.

11. In view of the above, no illegality or perversity can be found in the impugned order passed by learned Additional Principal Judge, Family Court, Rohtak. Consequently, the present petition is hereby dismissed with ₹10,000/- (Rupees Ten Thousand Only) as costs. The petitioner is hereby directed to deposit the aforesaid costs before learned Judge, Family Court,

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Rohtak within a period of 3 months from today. On his deposit of the same, learned Judge, Family Court, Rohtak shall transmit the same to the minor daughter, namely, Kashish in the form of any Government scheme including an FDR or any *Sukanya Samriddhi Yojana* or any other scheme of the Government which as per the wisdom of learned Judge, Family Court will be best suited for the minor daughter.

12. In case the aforesaid amount is not deposited by the petitioner within the aforesaid period, then learned Family Court, Rohtak is hereby directed to ensure that the aforesaid amount is deposited by the petitioner and to recover the same from him in accordance with law including recovery by way of arrears of land revenue.

13. A copy of this order be sent to learned Family Court, Rohtak.

14. Since the present petition has been dismissed, all the pending applications also stand disposed of.

22.05.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |