



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRR(F)-1031-2019 (O&M)
Date of Decision:-26.05.2025**

Daljit Singh

.....Petitioner

Versus

Jaswinder Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Harveen Kaur, Advocate for the petitioner.

Mr. Lovepreet Singh, Advocate for
Mr. Abhishek Khullar, Advocate for the respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present revision petition has been filed for setting aside the impugned order dated 05.09.2019 passed by the learned Additional Principal Judge, Family Court, Ludhiana, whereby the petition filed under Section 125 of Cr.P.C. by the respondents was allowed.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the marriage between the petitioner and respondent No.1 was solemnized on 09.12.2001 and thereafter two children were born out of the wedlock on 23.03.2004 and 28.06.2005 respectively, which is not in dispute. She submitted that respondent No.1-wife had alleged before learned Additional Principal Judge, Family Court, Ludhiana that the petitioner was earning approximately Rs.45,000/- per month from his work with a D.J. (musical group). However, the petitioner is merely a labourer and his income is not Rs.45,000/- per month. She also submitted that the respondent-wife



was not able to prove anything or place anything on record before the learned Judge, Family Court, with regard to the income of the petitioner and therefore the total amount of maintenance which has been fixed i.e. Rs.4,000/-per month for respondent No.1 (wife), Rs.2,000/-per month for respondent No.2 and Rs.1,000/-per month for respondent No.3, was on the higher side because the petitioner is not able to pay the aforesaid amount. Therefore, the impugned order is liable to be set aside or may be reduced considerably.

3. On the other hand, learned counsel for the respondents submitted that even if the petitioner is not able to pay the aforesaid amount and is earning a lesser amount as a labourer, that itself cannot become a ground for denial of maintenance to the respondent-wife and her children, because it is settled law that if a husband is an able-bodied man, which is not disputed in the present case, then he is supposed to do more work and maintain his wife and children. In this regard, he referred to a judgment of the Hon'ble Supreme Court in *Anju Garg & Anr. V. Deepak Kumar Garg, 2022 SCC Online SC 1314*. He also submitted that so far as respondent No.1-wife is concerned, she does not have any source of income and neither anything was placed on record nor proved by the petitioner in this regard and at the same time she has the care and custody of two minor children and therefore the aforesaid amount of Rs.7,000/- per month for three persons i.e. for respondent-wife and two minor children is on the lesser side and therefore he has prayed for dismissal of the present petition.

4. I have heard the learned counsels for the parties.

5. It is a case where the marriage between the petitioner and respondent No.1 and two minor children born out of the wedlock are not in



dispute. It is also not in dispute that respondents No. 2 and 3- minor children were under the care and custody of respondent No.1-wife, at the time of the passing of the impugned order. The learned Additional Principal Judge, Family Court, Ludhiana, has granted maintenance amount of Rs.4,000 per month to respondent No.1-wife, Rs.2,000 /-per month to respondent No. 2, and Rs.1,000/-per month to respondent No. 3, respectively. Although the income of the petitioner was not proved on the record but at the same time, the petitioner-husband, who is an able-bodied man, was bound to maintain his wife and minor children and therefore, the aforesaid amount of Rs.7,000/- per month was fixed by the learned Additional Principal Judge, Family Court, Ludhiana. Even if the income of the petitioner was not proved on record, that would not mean the petitioner would not be liable for payment of the maintenance amount, especially in view of the fact that respondent No.1 (wife) was not having any source of income nor anything was produced on record in this regard.

6. During the course of arguments, the learned counsel for the petitioner stated that a separate petition under the Domestic Violence Act is also pending and also referred to the judgment of the Hon'ble Supreme Court in ***Rajnesh versus Neha, 2021 (2) SCC 324***, in this regard, to state that the amount which is to be paid in other separate proceedings should be adjusted in the present case .

7. After hearing learned counsels for the parties, this Court is of the considered view that the maintenance fixed by the learned Additional Principal Judge, Family Court, Ludhiana through the impugned order does not deserve to be set aside because it does not suffer from any illegality or



perversity, especially since the marriage between the petitioner and respondent No. 1 is not in dispute and it is also not in dispute that the children are under the care and custody of the respondent-wife who is not working anywhere and therefore the impugned order cannot be set aside.

8. Consequently, the present petition is dismissed. However, the limited prayer of learned counsel for the petitioner regarding the adjustment of the amount, in view of the judgment of the Hon'ble Supreme Court in ***Rajnish vs. Neha (supra)***, appears to be genuine and reasonable. Therefore, it is directed that the impugned order shall remain modified to the limited extent that if any amount of maintenance is paid by the petitioner in any other proceedings, including under the DV Act, the same shall be adjusted against the maintenance amount in the present case in consonance with the judgment of the Hon'ble Supreme Court in ***Rajnish vs. Neha'(supra)***.

(JASGURPREET SINGH PURI)
JUDGE

26.05.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No