IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision (FC) No.11 of 2024
Date of decision:02.11.2026

Anil Kumar ...Petitioner

Versus

Harpreet & another ...Respondents.

Coram:

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1] *Yes.*

For the petitioner: Mr. Neel Kamal Sharma, Advocate.

For the respondents : Mr. Vijay Singh Thakur, Advocate.

Ajay Mohan Goel, Judge (oral):

By way of this petition, the petitioner has challenged order dated 08.06.2023, passed by the learned Principal Judge, Family Court, Hamirpur, in a petition preferred by the respondents herein under Section 125 of the Code of Criminal Procedure for grant of monthly maintenance of Rs. 10,000/- per month each to the respondents, in terms whereof, the learned Court below, after taking into consideration the fact that the respondents were awarded an amount of Rs. 2,000/- and Rs. 1,000/-, respectively in collateral proceedings, i.e., proceedings under the Protection of Women from Domestic Violence Act, 2005, was pleased to dispose of the petition by

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Whether reporters of Local Papers may be allowed to see the judgment?

directing the petitioner herein to pay maintenance of Rs.7,500/- per month to the wife and Rs. 3,500/- per month to the child.

2. Mr. Neel Kamal Sharma, learned counsel for the petitioner, submitted that the impugned order is not sustainable in the eyes of law for the reason that the learned Court below has erred in not taking into consideration the factum of compensation having been awarded under the Domestic Violence Act also in favour of the respondents herein. He further submitted that the financial capability of the petitioner has also not been taken into consideration by the learned Court below while passing the impugned order. Learned counsel further submitted that the amount awarded be reduced so that the petitioner is in a position to comply with the same. He has also submitted that the petitioner is still willing to reside with the respondent.

3. On the other hand, learned counsel for the respondents has submitted that on one hand, the petitioner is submitting before this Court that he is willing to reside with the respondents, whereas the marriage between him and the wife has been dissolved by way of a divorce in a petition which was preferred by the husband, against which an appeal is pending. He further submitted that the contention of the petitioner that the maintenance being paid to the respondents under the Domestic Violence Act was not taken into consideration by the learned Court below was completely wrong, because paragraph 24

of the impugned order demonstrates that the same was taken into consideration by the learned court below while passing the order. He further submitted that the contention of the petitioner that his financial capability was not taken into consideration by the learned Court below was also totally incorrect, because the learned Court below took into consideration the qualification of the petitioner herein as also the factum of the petitioner at one stage being registered as the owner of a Laboratory, which, as per the respondents, has now been registered by him in the name of some other person. Learned counsel for the respondents also argued that the respondents have placed on record in the present proceedings the documents demonstrating that there was a land purchased by the petitioner, which he surreptitiously gifted to his mother, upon which, now a house stands constructed. He submitted that all this demonstrated that the petitioner is a man of means and yet, he was not willing to pay the meagre maintenance amount awarded in favour of the respondents herein.

4. We have heard learned counsel for the parties and have also carefully gone through the impugned order as well as other documents appended therewith.

5. The petitioner is aggrieved by the impugned order, in terms whereof, the learned Court below has directed the petitioner to pay an amount of Rs. 7,500/- per month to the wife and Rs.3,500/- per month to the child as maintenance.

6. The first contention of the learned counsel for the petitioner that the order is bad, as the factum of a certain amount having been awarded to the respondents herein under the Domestic Violence Act has not been taken into consideration by the learned Court below, is incorrect. A perusal of the order passed by the learned Court below demonstrates that in Paragraph-24 thereof, learned Court below took cognizance of the factum of an amount of Rs. 2,000/- and Rs.1,000/- respectively being paid to the respondents herein in collateral proceedings under the Domestic Violence Act. Thereafter, the learned court below observed that taking the entirety of the circumstances into consideration, it was of the view that monthly maintenance of Rs. 7,500/- in favour of the wife and Rs. 3,500/- in favour of the child would be reasonable. Therefore, it cannot be said that the amount which was awarded in favour of the respondents herein under the Domestic Violence Act was not taken into consideration by the learned Court below.

7. The second contention of the petitioner that the financial status of the petitioner was not taken into consideration by the learned court below is also contrary to the record. A perusal of the order demonstrates that the learned court below took into consideration the fact that the petitioner was a qualified Laboratory Assistant and, in fact, till the year 2015, there was a Laboratory, which was registered in his name. That being the case, thereafter why the petitioner was not

running the Laboratory is not for the Court to see. However, the fact of the matter remains that as there was a Clinical Laboratory registered in his name from 2011 to 2015, i.e., M/s Jai Diagnostic Laboratory and the licence whereof was not renewed by the petitioner after the year 2015, for his own act of omission, he cannot take advantage of the same. This possibility can also not be ruled out that all this was done by the petitioner just to evade the upkeep of the respondents, because the record demonstrates that the dispute between the petitioner and his wife is quite old.

8. Though we are aware of the fact that in order to examine the legality of the impugned order before us, primarily we have to take into consideration the record which was present before the learned Court below, yet, herein the respondents have filed Cr.M.P. No. 1810 of 2025, placing on record additional documents and along with this application, the respondents have appended a sale deed dated 16.03.2016, in terms whereof, the land mentioned in the said sale deed has been purchased for an amount of Rs. 6,84,000/- by the present petitioner, namely, Anil Kumar, son of Shri Amar Nath, from one Shri Mohinder Singh. The record appended with this application further demonstrate that thereafter this land was gifted by the petitioner to his mother, namely, Smt. Brahmi Devi, vide gift deed dated 06.04.2018. Petitioner was put to notice in the said application and has filed reply thereto.

9. A perusal of these documents demonstrates that the average value of the land in terms of the contents of the gift deed was assessed at Rs.13,82,500/- at the time when the gift deed was executed by the petitioner in favour of his mother. The existence of these documents could not be disputed by the learned counsel for the petitioner. The above facts, therefore, do corroborate the contention of the respondents that the petitioner is a person with financial capacity, but probably he is finding ways and means to ensure that the respondents are denied of their legal rights in terms of the order passed in their favour by the learned Court below.

10. In light of the above discussions, as we do not find any merit in the contention of the petitioner that the financial capacity of the petitioner has not been taken into consideration by the learned court below and further, as observed by us hereinabove also, as the factum of the respondents having been granted certain compensation under the Domestic Violence Act has also been taken into consideration by the learned Court below, we do not find any reason to interfere with the impugned order. Otherwise also, we may observe that the amount of maintenance that has been granted cannot be said to be such a humongous amount which calls for any interference, as it is just sufficient to take care of the respondent-wife as well as the minor son of the parties.

11. Consequently, the present petition is dismissed along with pending application(s), if any.

(Ajay Mohan Goel)
Judge

(Romesh Verma)
Judge

2nd November, 2026.
(vt**)**