

## Varinder Kumar v. Preety Bala , (2022-2)206 PLR 132

PUNJAB AND HARYANA HIGH COURT

*Before: Mr. Justice Rajesh Bhardwaj.*

VARINDER KUMAR – Petitioner,

*Versus*

PREETY BALA and another – Respondents.

CRM-42734-2021 in/and CRR(F)-508-2021(O&M)

**Criminal Procedure Code, S. 125 - Even if the wife is earning, the husband is legally and morally bound to maintain her - The maintenance under Section 125 Cr.P.C. is to prevent the vagrancy - The wife is equally entitled for living standard which she was enjoying while living with her husband - The husband is an able-bodied man and hence, he cannot wriggle out of the responsibility he is legally bound to discharge.**

*Mr. Gobind Rai Sharma*, for the petitioner.

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**Rajesh Bhardwaj, J.** (ORAL) – (2.2.2022) – Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

2. The present revision petition has been filing impugning the order dated 07.12.2018 passed by the learned District Judge (Family Court), Moga, wherein, interim maintenance of Rs.3500/- per month has been granted to respondent No.1-wife and Rs.1500/- per month to respondent No.2 i.e. minor daughter.

3. Alongwith the revision petition, an application under Section 5 of the Limitation Act has also been filed for condonation of delay of 764 days in filing the revision. The only ground for condonation of delay has been mentioned as outbreak of COVID-19.

4. It has been contended by learned counsel for the petitioner that the petitioner was married with respondent No.1 on 29.04.2017 and a female child was born on 30.03.2018 and the child is living with the mother. He submits that due to quarrelsome nature of respondent No.1, they started living separately.

5. However, the petitioner has filed a petition under Section 9 of the [Hindu Marriage Act](#) for restitution of conjugal rights. However, the matter was compromised between the parties on 21.07.2018. He has submitted that respondent No.1 is M.A. B.Ed. and posted as a Teacher at Sant Gurmail Singh School and College for Girls at Baghapurana and hence,

getting handsome salary. He submits that the petitioner is posted as an Instructor under the Welfare Scheme in the department of Govt. Industrial Training Institute, Manuke, Ludhiana, but due to COVID 19 he is not getting his salary since February, 2021 upto now and he is totally dependent on his father. He has also submitted that being fed up by the act and conduct of respondent No.1, the petitioner filed a petition under Section 13 of the Hindu Marriage Act for grant of divorce. He further submits that the learned Family Court has failed to appreciate the facts and circumstances of the case and, thus, arrived at an erroneous conclusion in granting interim maintenance of Rs.3500/- per month to respondent No.1 and Rs.1500/- to respondent No.2.

6. Heard.

7. The relationship between the petitioner and respondent No.1 is duly admitted. Respondent No.2 is the daughter of the petitioner. The main thrust of the petitioner in resisting the interim maintenance granted by the Court is that respondent No.1-wife is earning and hence, she is not entitled for any maintenance. In view of the plethora of the judicial pronouncements by Hon'ble the Supreme Court, it is well settled law that even if the wife is earning, the husband is legally and morally bound to maintain her. The maintenance under Section 125 Cr.P.C. is to prevent the vagrancy. The wife is equally entitled for living standard which she was enjoying while living with her husband. The husband is an able-bodied man and hence, he cannot wriggle out of the responsibility he is legally bound to discharge. On the other hand, the revision petition has been filed with an inordinate delay of 764 days. There is no justifiable ground for condonation of the same. In the totality of the facts and circumstances of the case, this Court neither finds any justification in condoning the delay in filing the revision nor finds any merit in the revision petition. The revision fails on both accounts, and is therefore dismissed.