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(2023-1)209 PLR 448

PUNJAB AND HARYANA HIGH COURT

*Before: Jagmohan Bansal, J.*

AMIT MANCHANDA – Petitioner

*Versus*

NISHU and another – Respondents

CRR(F)-503 of 2021(O&M)

**Criminal Procedure Code, 1973 (2 of 1974), Section 125 – Interim maintenance awarded Rs. 10,000/- per month – Marriage not disputed – No evidence to show that wife is working and earning – Petitioner is a qualified dental doctor and he is morally, ethically and statutorily duty bound to maintain his wife and daughter – He shall have an opportunity to put forth his stand at the time of determination of final maintenance – The Family Court is expected to look into status of the wife especially her financial status prior to passing of final order. [Para 7]**

*Mr. Sumeet Goel, Senior Advocate with Mr. Manav Bajaj, for the petitioner*

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**Jagmohan Bansal, J. (ORAL) – (23.02.2023) –**

CRM-42416 of 2021

1. Allowed as prayed for.
2. Annexures P-1 to P-4 are taken on record. Registry is directed to tag the same at an appropriate place.

CRR(F)-503 of 2021 (O&M)

3. The petitioner, through the instant petition is seeking setting aside of order dated 01.09.2021 whereby Principal Judge Family Court, Kurukshetra has allowed interim maintenance of Rs. 16,000/- per month i.e. Rs. 10,000/- per month to respondent No. 1 (wife) and Rs. 6,000/- per month to respondent No. 2-minor daughter of the petitioner.

4. The brief facts of the case are that marriage of the petitioner was solemnized with respondent No. 1 on 29.04.2013 as per Hindu rites and rituals. From this wedlock, one

female child was born on 14.07.2014. Unfortunately, the couple could not enjoy the fruits of marriage and respondent alongwith her daughter started staying separate from the petitioner. The respondent preferred a petitioner under Section 125 Cr.P.C. seeking maintenance for herself and her daughter. The petitioner filed petition before District Court, Gurugram seeking decree of divorce, however, the petition came to be transferred to District Judge, Kurukshetra by order dated 17.05.2018 passed by this Court in TA No. 945 of 2017. The respondent lodged FIR No. 275 dated 22.03.2017 under Sections 323, 498-A and 406 IPC against the petitioner, however, he came to be acquitted by JMIC, Kurukshetra vide order dated 23.07.2021. The Family Court, Kurukshetra vide order dated 01.09.2021 has granted interim maintenance of Rs. 10,000/- per month to the respondent-wife and Rs. 6000/- per month to respondent No. 2-minor daughter of the petitioner.

5. Learned counsel for the petitioner inter alia contends that wife is a well qualified lady and she was gainfully employed with Kurukshetra University, thus, she is competent to maintain herself still Family Court has awarded interim maintenance of Rs. 10,000/- per month to respondent-wife. He does not dispute maintenance qua daughter. The amount of maintenance awarded to wife is on the higher side because income of the petitioner is less than Rs. 20,000/- per month.

6. I have heard learned counsel for the petitioner and perused the records.

7. From the perusal of record and especially affidavit filed by the petitioner, it is quite evident that he is BDS and has further attained Post Graduation Degree of M.Sc. (Anatomy) from Sardar Patel Government Medical College, Bikaner. The petitioner is admittedly running a private clinic, however, he is claiming that his monthly expenses Rs. 14,000/- are born by his brother. The petitioner is not disputing marriage with the respondent. The petitioner is not primarily disputing his liability towards his daughter and his only grievance is qua maintenance awarded to the wife. The petitioner is unable to furnish any evidence disclosing that wife is working and actually earning. In the absence of any documentary evidence, it is highly improbable to believe that respondent is working and earning to the extent that she is able to maintain herself. The petitioner is a qualified dental doctor and he is morally, ethically and statutorily duty bound to maintain his wife and daughter. The amount of maintenance awarded is interim maintenance and petitioner shall get an opportunity to put forth his stand at the time of determination of final maintenance. The Family Court is expected to look into status of the wife especially her financial status prior to passing of final order.

8. In view of the above observations, no interference is warranted.

9. Dismissed.

10. Pending miscellaneous applications, if any, shall stand disposed of.

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*Petition dismissed.*