



S. No.114

2024:PHHC:129016



IN THE HIGH COURT OF
PUNJAB AND HARYANA AT CHANDIGARH

CR No.5695 of 2024 (O&M)

Date of Decision: 27.09.2024

Surender Kumar

.....Petitioner

Vs.

Smt. Neelam Rani and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rajesh Gupta, Advocate for the petitioner.

DEEPAK GUPTA, J.

Petitioner herein is the husband of respondent No.1 – Smt. Neelam Rani and father of respondents No.2 and 3. He has assailed the order dated 04.03.2013 (*Annexure P1*) passed by learned Additional Sessions Judge, Jind, whereby petitioner was held liable to pay maintenance @ ₹6,000/- per month w.e.f. 11.06.2011 to the respondents, in proceedings under Domestic Violence Act.

2. Perusal of the paper book would reveal that in the complaint filed under Section 12 of the Protection of the Women from Domestic Violence Act, 2005, (for short, 'the Act') by wife and the two children, i.e. respondents herein, learned Additional Chief Judicial Magistrate, Jind vide order dated 11.06.2011 (*Annexure P2*) had directed the husband- Surender Kumar and his father Sher Singh to pay maintenance to the tune of ₹10,000/- per month under Section 20 of the Act to the respondents herein. Besides this, the residence right under Section 19 of the Act and compensation of ₹10,000/- was also allowed. The petitioner herein i.e. husband as well as his father filed separate appeals against the order dated 11.06.2011 of the trial Magistrate. Learned Additional Sessions Judge, Jind by way of the impugned order dated 04.03.2013 (*Annexure P.1*) affirmed the residence rights of the respondents i.e. wife and children but reduced the maintenance amount from ₹10,000/- to ₹6,000/- and made only the petitioner herein i.e. husband to be liable to pay the maintenance.

3. The petitioner earlier filed Criminal Revision No.1015 of 2013 against the afore-said orders Annexures P.1 and P.2 but the same was dismissed

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vide order dated 22.08.2024 *Annexure P.6* being not maintainable with liberty to the petitioner to avail the appropriate remedy.

4. Learned counsel contends that while allowing maintenance @ ₹6,000/- per month, the learned Additional Sessions Judge failed to take into consideration the fact that in a petition under Section 125 Cr.P.C., the Magistrate had allowed maintenance @ ₹2,000/- per month i.e. ₹1,000/- per month for the wife and ₹500/- each per month for two children. The said amount was enhanced to ₹3,000/- per month i.e. ₹1,000/- each for wife and two children vide order dated 14.02.2018 in a petition filed under Section 127 Cr.P.C vide *Annexure P.5*. Learned counsel contends further that the petitioner had already cleared the arrears @ ₹2,000/- per month as awarded under Section 125 Cr.P.C twice. Learned counsel has also drawn attention towards the fact that respondent- wife was earlier employed with Civil Surgeon, Jind during 05.04.2013 to 30.09.2013 and was getting ₹6,500/- per month at DC rates. Later on, respondent- wife has been working on daily wages at different places and as of now, she is drawing monthly wages of ₹16,250/- per month. Learned counsel submits that in all these circumstances, the amount of ₹6,000/- per month awarded as maintenance, is on much higher side as petitioner is only labourer and is not able to pay the amount.

5. Heard learned counsel for the petitioner at length and the paper book perused.

6. It is not disputed by learned counsel that two children i.e. respondents No.2 and 3 are residing with the wife i.e. respondent No.1. Though it is claimed that those children have attained majority but they have attained the said majority in 2020 & 2023 during pendency of the proceedings before the High Court. Now-a-days, an amount of ₹6,000/- per month for three persons i.e. wife and two children is quite on lower side. Merely because the Magistrate had granted the maintenance @ ₹2,000/- per month, which was enhanced to ₹3,000/- per month, in proceedings under Section 125/127 Cr.P.C., does not mean that the maintenance has been allowed by the Additional Sessions Judge on the higher side, particularly when it has been reduced from ₹10,000/- per month granted by Additional Chief Judicial Magistrate to ₹6,000/- per month. In case the wife in order to meet the responsibilities of herself and her two



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children started working at some place to make additional income, cannot be a reason for the husband to escape his liability to pay the maintenance.

7. Not only above, to the specific query put by this Court, learned counsel concedes that except ₹2,000/- per month being paid to the respondents as per the order of the Magistrate under Section 125 Cr.P.C., no other amount has been paid. Meaning thereby, the order to pay amount of ₹6,000/- per month payable to the respondents as per the impugned order dated 04.03.2013 (Annexure P.1) has not been complied till date for the last 11 years, despite the fact that there was no stay order by this Court in CRR No.1015 of 2013. It is conceded by learned counsel that only notice of motion had been issued in that case and that no stay of the impugned order had been passed.

8. Having regard to the afore-said facts and circumstances, this Court does not find any merit in this petition. Dismissed.

September 27, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No