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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-667-2024 (O&M)

Date of Decision:- 04.02.2025

Sonu

...Petitioner

Versus

Smt. Neelam and another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Rajnikant Upadhyay, Advocate for the petitioner.

Mr. Ajay Kadyan, Advocate for the respondents.

AMARJOT BHATTI, J.(Oral)

CRM-43894-2024

This is an application filed u/s 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for placing on record photographs of second marriage performed by petitioner as Annexure R-1, certificates of petitioner as Annexure R-2, Tehsil record as Annexure R-3, Rent Deed of Café of petitioner as Annexure R-4 and Fees receipt of baby girl Vivanshi as Annexure R-5.

For the reasons enumerated in application, same is allowed. Accompanying documents i.e. Annexure R-1 to Annexure R-5 are taken on record, subject to all just exceptions.

Main Case

1. Petitioner Sonu has filed revision against impugned order dated 19.03.2024 passed by learned Additional Principal Judge, Family Court at Sonipat, Sonipat vide which present petitioner has been directed to



pay ₹7,000/- per month to his wife Neelam – respondent No. 1 and ₹3,000/- per month to minor daughter Vivanshi – respondent No. 2, from the date of filing of petition, which is illegal, null and void viz-a-viz pleadings and evidence available on record.

2. As per the facts of case narrated by respondents (petitioners in main case) in petition under Section 125 Cr.P.C, that Neelam Rani got married with Sonu petitioner (respondent in main case) on 16.06.2020 according to Hindu rites and out of this wedlock, daughter was born on 17.04.2021, who is respondent No. 2 (petitioner No. 2 in main case). It is alleged that parents of Neelam had given sufficient dowry as per their capacity. However, respondent and his family members were unhappy with dowry given at the time of marriage. They raised demand for gold ornaments and luxury car. She was taunted in matrimonial home. There remained matrimonial dispute in house. She tolerated ill-treatment given to her in matrimonial home to save her married life. Respondent Sonu and his family were unhappy with birth of girl child. It is alleged that there was an attempt on the part of respondent and his family to know about sex of child and they also wanted to abort her pregnancy. Matter was brought to the notice of her family members. She was taken back to matrimonial home with assurance that she will be kept properly. Petitioner No. 1 Neelam has narrated various incidents of acts of cruelty which she faced in matrimonial home. She gave birth to petitioner No. 2 Vivanshi on 17.04.2021 in General Hospital, Panipat but neither respondent Sonu nor his family members came to see the newly born child. Meeting was convened by father of petitioner No. 1 on 15.08.2021 to make them understand. They



came to know that respondent wanted to settle in Canada and for that he will remarry in Canada. A complaint was filed with police. She was ill-treated in matrimonial home and was threatened with dire consequences in case she spoiled future of respondent Sonu. She was given beating on the intervening night of 19/20.09.2021. She made a call at police helpline number. Police of Police Station Pillukhera visited matrimonial home and she was handed over to her parents. Since then, she is living in her parental house. It is alleged that respondent is well educated person. He is Engineer by profession and having agricultural land in native village. His monthly income is not less than ₹1 lac. Petitioner No. 1 is a household lady having no source of income to maintain herself and her minor daughter nor she is owner of any movable or immovable property. She is living in her parental house under compelled circumstances. She alongwith her child claimed maintenance of ₹50,000/- per month from respondent.

3. Respondent Sonu (petitioner in this case) contested petition and filed his reply taking stand that petitioner No. 1 (respondent No. 1 in this case) has deserted the society of respondent by quarrelling with him and levelling false allegations. A Panchayat was convened and their marriage was dissolved. All allegations regarding demand of dowry and acts of cruelty are false and without any basis. Petitioner No. 1 (respondent No. 1 in this case) filed false complaints with police to spoil successful life of respondent Sonu. He is a simple farmer and is doing agricultural work having no other source of income. Therefore, petition filed by petitioners deserve dismissal.

4. Both parties had also filed their respective affidavits, giving



detail of their assets and liabilities. In order to prove the facts, petitioner No. 1 Neelam stepped into the witness box as PW-1 and also tendered documents Ex. P-1 to Ex. P-16. On the other hand, no evidence is led by respondent Sonu.

5. After hearing arguments advanced by learned counsel for both the parties, petition filed by petitioners (respondents in this case) was accepted by passing impugned judgment dated 19.03.2024 vide which petitioner No. 1-wife was granted maintenance of ₹7,000/- per month and petitioner No. 2-minor daughter was granted maintenance of ₹3,000/- per month from the date of filing of petition, as detailed therein. Feeling aggrieved of aforesaid judgment, present revision has been preferred by petitioner Sonu (respondent in main case).

6. Learned counsel representing petitioner (respondent in main case) mainly argued on the quantum of maintenance granted in favour of wife to the tune of ₹7,000/- per month. Whereas, regarding maintenance granted in favour of child to the tune of ₹3,000/- per month is not disputed. Learned counsel representing present petitioner took the stand that earlier petitioner was running a restaurant but thereafter, due to outbreak of COVID-19, business failed and petitioner had to close the said restaurant. At present, petitioner is unemployed. He is only having 04 kanals of land. He is having responsibility of his parents to look after them who are residing with him. Apart from testimony of Neelam as PW-1, there is no evidence to establish his income to justify quantum of maintenance granted in favour of wife Neelam. Impugned judgment has been passed in gross violation of guidelines issued by Hon'ble Apex Court in case titled



“Rajesh Vs. Neha and others” 2020(4) RCR(Criminal) 879. Status of parties and other responsibilities are totally ignored by learned Additional Principal Judge, Family Court at Sonipat. Therefore, impugned judgment dated 19.03.2024 passed by learned Additional Principal Judge, Family Court at Sonipat may kindly be set aside qua respondent No. 1-wife, whereas, maintenance awarded to his daughter-respondent No. 2 may kindly be kept intact. With this prayer, it is argued that impugned judgment passed by learned Additional Principal Judge, Family Court at Sonipat, Sonipat may kindly be modified.

7. On the other hand, learned counsel representing respondents (petitioners in main case) raised issue that Neelam along with her minor daughter is residing in her parental house under compelled circumstances. In fact, present petitioner is in relation with another lady, whose photographs are placed on record as Ex. P-9 to Ex. P-17. He has performed second marriage without taking divorce from Neelam. Aforesaid photographs are not disputed by petitioner (respondent in main case) during pendency of trial before learned Additional Principal Judge, Family Court at Sonipat. Learned counsel representing present respondents further pointed out that present petitioner was running restaurant under the name and style of Moon Café and Party Hall. He is a well-educated man. Stand taken by him that he has no source of income from said restaurant is without justification. During pendency of case, he has alienated his property to avoid payment of maintenance to his wife. Learned counsel representing respondents (petitioners in main case) filed criminal miscellaneous application for placing on record some more photographs as



well as revenue record showing transfer of property by family transfer dated 13.10.2021 and one rent agreement scribed on 22.11.2022 vide which Sonu took premises on rent at the rate of ₹47,000/- per month. It is argued that at the time of filing of case, Vivanshi minor daughter was 6 months old. Now she is about three and a half years old and she is to start with her schooling. Both mother and daughter are dependent on parental family of Neelam. Present revision has been filed by petitioner only to delay payment of maintenance and to harass respondents.

8. I have considered the arguments and have gone through the record carefully. It is not disputed that respondent No. 1 Neelam is legally wedded wife of present petitioner Sonu. Whereas, respondent No. 2 Vivanshi is their minor daughter, born on 17.04.2021. In the grounds of revision filed by petitioner (respondent in main case), he also took a stand that a Panchayat was convened and marriage between parties was dissolved, however, no such stand is taken by present petitioner while filing reply to main case. In affidavit furnished by present petitioner Sonu before the Family Court while giving personal information, there is no reference of said Panchayati divorce. It is simply alleged that parties are living separate since December, 2020. In the case in hand, Neelam stepped into the witness box as PW-1 before learned Additional Principal Judge, Family Court, Sonipat and placed on record photographs of Sonu with another girl Ex.P-9 to Ex.P-12 and Ex.P-17. Said photographs are not rebutted by petitioner (respondent in main case) nor he stepped into witness box to deny said photographs. Therefore, statement of Neelam respondent No. 1 (petitioner No. 1 in main case) supported by said photographs



remained un rebutted. In the light of this, it cannot be said that present petitioner Sonu took divorce from Neelam or she is residing in her parental house along with her child without any reasonable cause.

9. Present petitioner has disputed quantum of maintenance granted in favour of wife to the tune of ₹7,000/- per month by alleging that he is having 4 kanals of land. His business of restaurant was closed. Therefore, maintenance granted in favour of wife Neelam is towards higher side. Respondent No. 1 Neelam (petitioner No. 1 in main case) as PW-1 has placed on record photographs of restaurant in the name and style of Moon Café and Party Hall (Annexures P-13 to P-16). Apart from this, respondent No. 1 Neelam has also annexed one rent agreement dated 22.11.2022 vide which commercial property was taken on rent by present petitioner Sonu. Petitioner Sonu in his affidavit admitted his qualification as B.A. and claimed to be an agriculturist. He denied his business of restaurant, whereas, photographs annexed with petition showed otherwise. Obviously, it was not possible for respondents (petitioners in main case) to produce any direct evidence to establish income of husband Sonu from said restaurant. Petitioner Sonu (respondent in main case) has not opted to step into the witness box and has maintained total silence regarding his relationship with another lady as well as regarding his profession. Therefore, considering aforesaid factual position, learned Additional Principal Judge, Family Court, Sonapat rightly assumed monthly income of present petitioner Sonu as ₹20,000/- to ₹25,000/-.

Considering the aforesaid factual position, maintenance awarded in favour of respondent No. 1 Neelam (petitioner No. 1 in main



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case) at the rate of ₹7,000/- per month from the date of filing of petition does not require any interference. So far as maintenance to minor daughter Vivanshi – respondent No. 2 (petitioner No. 2 in main case) at the rate of ₹3,000/- per month is concerned, same is inadequate and towards lower side. Child is growing and to start her schooling. She is entitled to the facilities as per status of her father. Therefore, maintenance granted in favour of minor daughter is enhanced from ₹3,000/- per month to ₹5,000/- per month from the date of filing of petition.

10. It is matter of record that respondents (petitioners in main case) filed petition under Section 125 Cr.P.C. on 17.11.2021 and till date they are facing this litigation. Earlier, respondents (petitioners in main case) were granted meager litigation expenses of ₹3300/- vide order dated 20.02.2023 and at the time of final adjudication of this petition, no litigation expenses have been granted. Respondents (petitioners in main case) had to face litigation even before this Court. Taking into consideration these facts, petitioner Sonu is further directed to give litigation expenses of ₹20,000/- to respondent No. 1 (petitioner No. 1 in main case).

11. With aforesaid observation, present petition stands modified and disposed of.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

04.02.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No