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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR(F)-260-2022 (O&M)  
Date of decision: 07.05.2025

GURPREET SINGH NARULA

...Petitioner(s)

VERSUS

ANUJIT KAUR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. A. K. Khunger, Advocate  
for the petitioner.

Mr. Naren Pratap Singh, Advocate  
for the respondent.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present revision petition has been filed for setting aside the order dated 21.09.2021 passed by the learned Principal Judge, Family Court, Fazilka, vide which interim maintenance has been granted to the respondent-wife to the tune of Rs.5,000/- per month.

2. Learned counsel for the petitioner submitted that the marriage between the petitioner and respondent was solemnized on 11.06.2000 at Ludhiana. He further submitted that a matrimonial dispute arose between the parties and thereafter, the respondent-wife filed a petition under Section 125 Cr.P.C. for grant of maintenance and an application for grant of interim maintenance was also filed, which has been decided by the learned Principal Judge, Family Court, Fazilka by way of the aforesaid impugned order dated



21.09.2021. He further submitted that the respondent-wife was not entitled for the grant of interim maintenance because of the reason that she is living in adultery and even the name of the person with whom she is living in adultery is mentioned in the aforesaid impugned order. To substantiate his arguments, he referred to the impugned order and submitted that the respondent-wife had made a statement before the Station House Officer on 06.04.2019 in connection with FIR No.122 dated 04.04.2019, registered under Section 346 of the IPC, which was lodged by the petitioner-husband against her and in that statement, the respondent-wife mentioned the name of the person with whom she was residing on her own sweet will and stated that she does not want to live with her husband i.e. the present petitioner. On the basis of the aforesaid statement of the respondent-wife, the aforesaid FIR was later on cancelled. He further submitted that a separate petition under Section 13 of the Hindu Marriage Act, 1955 has also been filed by the petitioner-husband against respondent-wife seeking divorce on the ground of adultery, which is pending before the learned Principal Judge, Family Court, Rohtak and therefore, she was estopped by her own actions and conduct from filing a petition for grant of maintenance and also an application for grant of interim maintenance to which she is not entitled and therefore, the aforesaid impugned order passed by the learned Principal Judge, Family Court, Fazilka may be set aside.

3. On the other hand, learned counsel for the respondent-wife submitted that as per the affidavit which was filed by the petitioner-husband before the learned Principal Judge, Family Court, Fazilka pertaining to declaration of his assets and liabilities in terms of the judgment passed by



Hon'ble Supreme Court in *Rajnish versus Neha and another, (2021) 2 SCC 324*, his income is approximately Rs.42,000/- per month and he is running an electronic shop in the name and style of Riya Electronics and Sound Service at Rohtak and the same has been duly considered by the learned Principal Judge, Family Court, Fazilka at the time of considering the grant of interim maintenance. He further submitted that so far as the respondent-wife is concerned, she has got no source of income at all and neither any document was placed on record nor any evidence was adduced by the petitioner-husband to show that respondent-wife is working anywhere and therefore, it was so observed by the learned Principal Judge, Family Court, Fazilka that there is nothing on the record to suggest that the respondent-wife has any independent source of income. He further submitted that on the basis of the income of the petitioner-husband and on the basis of the fact that the respondent-wife was not having any source of income, an amount of Rs.5,000/- per month has been fixed as interim maintenance for the respondent-wife, which is rather on the lower side because the income of the petitioner-husband is approximately Rs.42,000/- per month even as per his affidavit.

4. Learned counsel for the respondent-wife also submitted that so far as the allegation of adultery against the respondent-wife is concerned, the petition filed by the petitioner-husband under Section 13 of the Hindu Marriage Act, 1955 on the ground of adultery is still pending and there is no observation of any Court of law that the respondent-wife was living in adultery and only bald allegations have been made by the petitioner-husband in this regard. So far as the statement which is noted by the learned Principal Judge, Family Court,



Fazilka in the aforesaid impugned order, which the respondent-wife is stated to have made is concerned, the same is stated to have been made before a Station House Officer of the Police Station and therefore, it is inadmissible in evidence and cannot be relied upon and therefore, there can be no estoppel in this regard. He also submitted that considering the fact that the respondent-wife is not having any source of income at all, the present petition may be dismissed.

5. I have heard the learned counsels for the parties.

6. The marriage between the parties is not in dispute and it is also not in dispute that both the parties are residing separately. The present is a revision petition filed against an order which has been passed by the learned Principal Judge, Family Court, Fazilka on an application filed by the respondent-wife for grant of interim maintenance and as an interim measure, interim maintenance of Rs.5,000/- per month has been fixed for the respondent-wife. A perusal of the aforesaid impugned order would show that as per the affidavit filed by the petitioner-husband, his income is approximately Rs.42,000/- per month, whereas so far as the respondent-wife is concerned, she has got no source of income at all and because of the aforesaid facts and circumstances, the learned Principal Judge, Family Court, Fazilka granted interim maintenance to the respondent-wife to the tune of Rs.5,000/- per month.

7. During the course of arguments, learned counsel for the respondent-wife referred to para No.2 of the impugned order, wherein it has been so stated that in the year 2008, upon the death of real sister of the respondent-wife, she received a claim of Rs.30,00,000/- and rather the aforesaid



amount was withdrawn by the petitioner-husband from the bank account of the respondent-wife by obtaining her signatures under duress.

8. After hearing the learned counsels for the parties, this Court would consider the present case in two different aspects. Firstly, as to whether the aforesaid impugned order passed by the learned Principal Judge, Family Court, Fazilka was erroneous, perverse and liable to be set aside or not. Secondly, as to whether the present revision petition filed by the petitioner-husband against an interim order considering the aforesaid facts and circumstances can be termed as vexatious with a motive to perpetuate litigation or not and consequence thereof.

9. So far as the first aspect is concerned, as per the aforesaid impugned order and the submissions made by the learned counsels for the parties, it is *ex facie* clear that no illegality or perversity can be found in the aforesaid impugned order passed by the learned Principal Judge, Family Court, Fazilka, vide which an amount of Rs.5,000/- per month has been fixed as interim maintenance for the respondent-wife, who is stated to be having no source of income at all and the same has also been so observed by the learned Principal Judge, Family Court, Fazilka that there is nothing on the record to suggest that the respondent-wife has got any source of income. On the other hand, as per the affidavit filed by the petitioner-husband pertaining to declaration of his assets and liabilities, his income is approximately Rs.42,000/- per month and therefore, by no stretch of imagination it can be said that the fixation of interim maintenance was perverse or even the quantum of the aforesaid interim maintenance was



on the higher side as so alleged by the learned counsel for the petitioner-husband.

10. On the issue of allegation of adultery, a perusal of the aforesaid impugned order and the submissions made by the learned counsels for the parties reveal that the petition which the petitioner-husband has filed under Section 13 of the Hindu Marriage Act, 1955 for grant of divorce on the ground of adultery is still pending and not decided as yet and therefore, no inference can be drawn on the basis of mere allegations contained, if any, on a petition filed under Section 13 of the Hindu Marriage Act, 1955 for grant of divorce on the ground of adultery as there was no finding of fact with regard to the same. So far as the argument raised by the learned counsel for the petitioner that the respondent-wife had stated before the Station House Officer that she is living separately with another person whose name has also been mentioned, the same is totally inadmissible and impermissible because the statement is stated to have been made before a police officer, which is not admissible in evidence and therefore, the allegations of adultery are bald allegations with no recording of fact by any Court of law as of today and on this ground, the respondent-wife cannot be non-suited for grant of maintenance or interim maintenance and therefore, no illegality or perversity can be found in the aforesaid impugned order passed by the learned Principal Judge, Family Court, Fazilka for the grant of interim maintenance.

11. So far as the second aspect is concerned, the facts and circumstances of the present case *ex facie* make it clear that the present revision petition is not only vexatious but it appears to have been filed with a motive to



perpetuate litigation by the petitioner-husband against his wife. It has come on record in the aforesaid impugned order that the respondent-wife is having no source of income at all and on the other hand, the petitioner-husband as per his own affidavit is earning approximately Rs.42,000/- per month and by way of the aforesaid impugned order, only application for grant of interim maintenance has been decided, whereas the main petition under Section 125 Cr.P.C. is still pending and therefore, this Court is of the considered view that the petitioner-husband has filed a vexatious petition before this Court with a motive to perpetuate litigation against his wife.

12. In view of the aforesaid facts and circumstances, the present petition is hereby dismissed.

13. Interim order dated 21.03.2024 stands vacated since the main case has been dismissed.

14. Miscellaneous applications, if any, shall also stand disposed of since the main case has been dismissed.

15. At this stage, learned counsel for the petitioner submitted that a divorce petition which was filed by the petitioner-husband before the learned Principal Judge, Family Court, Rohtak under Section 13 of the Hindu Marriage Act, 1955 has been decreed on 02.03.2022, although *ex parte* and therefore, the ground of adultery stands proven. He has also furnished a copy of the aforesaid decree dated 02.03.2022 passed by the learned Principal Judge, Family Court, Rohtak, which is taken on record.

16. On the other hand, learned counsel for the respondent-wife submitted that the aforesaid divorce decree was an *ex parte* decree and an



application has been filed by the respondent-wife for setting aside the aforesaid decree because it was an *ex parte* decree, in which notice was issued and the petitioner-husband has already filed reply to the same.

17. A perusal of the aforesaid decree would show that one person in the name of Gaurav Chawla was impleaded earlier as respondent No.2 but thereafter, he has been given up and the aforesaid decree has been passed *ex parte*. The marriage between the petitioner and the respondent has been dissolved under Section 13(1)(ia) of the Hindu Marriage Act, 1955, vide decree dated 02.03.2022, although in para No.12 of the aforesaid decree, it has been so observed that it is apparent that the respondent-wife was not residing at the given address of her house at Ludhiana but rather she was residing alongwith respondent No.2, who was the person who was earlier impleaded but given up.

18. This Court is of the considered view that the aforesaid finding itself is not sufficient for coming to the conclusion that the respondent-wife was living in adultery particularly in view of the fact that the aforesaid decree was an *ex parte* decree and an application for setting aside the aforesaid decree has been filed by the respondent-wife, which is still pending. Not only this, the aforesaid person, who was impleaded as respondent No.2 was given up and the decree has been passed under Section 13(1)(ia) of the Hindu Marriage Act, 1955 on the ground of cruelty and therefore, that itself will not become a ground for denial of interim maintenance to the respondent-wife.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**07.05.2025**  
Chetan Thakur

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