

COCP No.2813 of 2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP No.2813 of 2013
Date of decision:28.05.2015**

Kuldeep Kaur ...Petitioner

Versus

Lakhwinder Singh alias Dakshjit Singh ...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Vinod Agnohotri, Advocate, and
Mrs. G.K.Turka, Advocate, for the petitioner.

Mr. Sandeep S. Majithia, Advocate,
for the respondent.

Rakesh Kumar Jain, J.

The petitioner got married with the respondent at Ludhiana on 21.11.1999 as per Sikh Rites. They are blessed with two children, namely, Harmeet Singh, born on 22.10.2000 and Harleen Kaur, born on 25.05.2006. The respondent filed a petition under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the “Act”) against the petitioner on the ground of cruelty and desertion. The said petition was dismissed on 03.11.2010. The respondent also filed appeal before this Court bearing FAO No.14-M of 2011, which is admitted. The petitioner filed an application under Section 24 of the Act, seeking maintenance *pendente lite* and litigation expenses which was disposed of on 22.11.2011, directing the

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respondent to pay ₹15,000/- per month as maintenance *pendente lite* to the petitioner from the date of filing of the application i.e. 07.03.2011 and ₹20,000/- towards litigation expenses. It was further ordered that the arrears of maintenance *pendente lite* and litigation expenses would be paid within a period of 3 months from the date of the order. Since the order passed by this Court was not complied with by the respondent within the stipulated time, the present petition is filed under Section 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as the “Act”) for initiating proceedings against the respondent for willful disobedience of the order dated 22.11.2011.

The contempt notice was issued to the respondent on 25.10.2013, directing him to appear before this Court on 05.12.2013 at 12 O'clock to show cause as to why he should not be penalised for violating the direction of this Court. On the next date of hearing, this Court recorded the order that “*notice issued to the respondent has not been received back. Let respondent be served through bailable warrant in the sum of ₹10,000/-. The warrant will be executed by the police of Ludhiana with the assistance of Andheri Police, West Mumbai for 11.02.2014*”. The bailable warrants were received unserved with the report that the respondent has furnished a false address and has never resided there. Thereafter, the following order was passed by this Court on 11.02.2014:-

“Affidavit of Shri Gurbans Singh Bains, Asstt. Commissioner of Police, Crime, Ludhiana is taken on record.

The bailable warrant issued to the respondent has

been received back unserved with a report that the respondent has furnished a false address and has never resided there.

Learned counsel for the petitioner contends that this is the only address furnished by the respondent and in the appeal that he has preferred the same address has been indicated.

Be that as it may, the Court in view of the report of the execution of bailable warrant would have to lent credence to it unless contrary material is shown. The matter is adjourned to 18.07.2014 in the interest of justice.

In the meantime, the petitioner may take appropriate steps to serve the unserved respondent through alternate modes of service.”

On the adjourned date on 18.07.2014, the following order was passed:-

“In the first instance it is directed that the notice be served through affixation on the permanent address of the respondent at Ludhiana as indicated in the memo of parties for 20.02.2015.”

Ultimately, the respondent has put in appearance through his advocate but the order passed by this Court has not been complied with.

Counsel for the respondent has prayed for an adjournment in order to file the review of the order dated 22.11.2011.

I have heard learned counsel for the parties and perused the record.

In the order passed by the Division Bench on 22.11.2011, the

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respondent, who had appeared through his advocate, was directed to pay the arrears of maintenance *pendente lite* and litigation expenses within a period of 3 months from the date of passing of the order, which means, the respondent was to make the payment upto 22.02.2012. He did not pay the amount which is now allegedly an arrears of ₹8,00,000/-. It was also recorded by this Court in the notice issued on 25.10.2013 that the petitioner had filed an application for implementation of order dated 22.11.2011 but the respondent has been evading service and even his counsel had also not appeared. The bailable warrants of arrest issued by this Court for procuring his presence also remained unserved because he had furnished a false address of Mumbai. Ultimately, the notice was affixed at his address at Ludhiana and that is how he had appeared in this case but instead of complying the order dated 22.11.2011, a request has been made for granting adjournment enabling him to file the review application, which cannot be permitted because of the act and conduct of the respondent of evading the Court on one pretext or the other.

Thus, in view of the facts and circumstances of the case, discussed here-in-above, I am of the opinion that the respondent-contemner has a scant regard for the order of this Court as he has willfully disobeyed and flouted the order passed by this Court on 22.11.2011 and is thus held guilty for committing contempt of the Court for which he is convicted and sentenced to undergo simple imprisonment for six months and to pay a fine of ₹2,000/- and in case of default of payment of fine, he will further undergo imprisonment for one month. This order will become operational after the

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expiry of three months, during which period the respondent may avail appropriate legal remedy available to him and/or purge the contempt.

However, the petitioner, if so advised, may avail her remedy, in accordance with law, for recovery of arrears of maintenance *pendente lite* and litigation expenses.

May 28, 2015
vinod*

(Rakesh Kumar Jain)
Judge