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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2807-2016 [O&M]

Date of Decision : April 25th, 2016

Mahesh Kaushik

.... Petitioner

Versus

Manisa Kaushik and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present Mr.Jai Singh Yadav, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for setting aside order dated 15.03.2016 [Annexure P/4] whereby conditional warrant of arrest has been issued against the present petitioner/Judgment Debtor.

2. Learned counsel for the petitioner submitted that no opportunity has been afforded by the Court below to the petitioner before passing the impugned order and as such the order under challenge is liable to be set-aside.

3. Having considered the submissions made by learned counsel for the petitioner and appraisal of the record, this Court is of the view that on an application under Section 125 of Code of Criminal Procedure, 1973,

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both the parties mutually agreed on 21.02.2012 that the petitioner would make monthly payment of Rs.10,000/- as maintenance to the wife and on the basis of said compromise, learned District Judge, Family Court, Gurgaon disposed of the application. However, the petitioner failed to make the payment of maintenance allowance as agreed during proceedings before the Family Court, Gurgaon. As such, the conditional warrant of arrest has been issued against the petitioner. There was no question of providing an opportunity of showing cause to the petitioner as the order dated 21.01.2012 [Annexure P/2] was passed on the basis of compromise having been arrived at between the parties. More so, if the petitioner is still ready to make the payment of amount, the conditional warrant of arrest shall automatically cease to operate as the Court below itself has passed order for issuance of conditional warrant of arrest. Hence, the present petition is without any merit and the same stands dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

April 25th, 2016
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