

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-6190 of 2016

Date of decision : 29.03.2016

Bikramjit Singh

... Petitioner

versus

Kiranjit Kaur and another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. G.S. Sirphikhi, Advocate
for the petitioner

Mr. Raj Kumar Arya, Advocate
for the respondents

ANITA CHAUDHRY, J.(ORAL)

The petitioner is seeking quashing of the order dated 21.12.2015 passed by Judicial Magistrate 1st Class, Gurdaspur who had issued conditional warrants in lieu of the maintenance amount.

I have heard both the sides.

Learned counsel for the petitioner contends that the Magistrate had passed an order granting maintenance but there were no clear orders and the order was challenged in revision and the Revisional Court set aside the order and gave direction to the Court below to pass a fresh order. He further urges that the execution petition was filed by the respondent seeking maintenance on the basis of the order dated 07.03.2013 which had been set aside in revision and conditional warrants (Annexure P-6) have been issued.

Learned counsel for the respondents sought to justify the order and urges that fresh order had been passed in March 2013 and that amount was payable.

Learned counsel for the petitioner contends that the respondents had filed a fresh execution petition and, therefore, the execution filed in 2011 should have been withdrawn.

It is not disputed that the order passed by the Magistrate granting maintenance in March 2013 had been set aside in revision. Once the order had been set aside, the Executing Court should not have passed any order much less conditional warrants. Perhaps the orders were not conveyed to the Court by the respondents. The record reveals that the respondents had filed an application and warrants of attachment of salary had also been ordered. The order dated 07.03.2013 had been set aside. Since that order had been set aside, therefore, the impugned order could not be passed. The impugned order is set aside.

March 29, 2016

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**(ANITA CHAUDHRY)
JUDGE**