

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F) No.194 of 2016 (O&M)

Date of Decision: 15.5.2017

Sanjeev Kumar

..Petitioner

Vs.

Master Saksham

..Respondent

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr.Ravi Gakhar, Advocate for the petitioner.

Mr.N.P.Bhardwaj, Advocate for the respondent.

REKHA MITTAL, J.

The present petition directs challenge against the order dated 19.3.2016 passed by the District Judge (Family Court) Ambala whereby the petitioner has been directed to pay maintenance to the respondent (minor son of the petitioner) @ Rs.3000/- p.m. from the date of filing application under Section 125 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') alongwith litigation expenses to the tune of Rs.3000/-.

The sole submission made by the counsel for the petitioner is that in case Ruchi Sharma, mother of the minor son, is not in a position to maintain the child from her own sources, she should hand over custody of the child to the petitioner, who is ready to maintain the child in the best possible manner. It is further submitted that proceedings initiated at the behest of the petitioner seeking custody of the child are pending adjudication before the Court below.

Counsel for the respondent has supported the impugned order

With the submission that as dispute with regard to custody of the child is

pending adjudication and has to be decided by the Court below in accordance with law, the petitioner cannot escape his liability to maintain the minor child, who has a statutory right to claim maintenance from either of the parents or both.

I have heard learned counsel for the parties and perused the paper book particularly the order impugned.

Be that as it may, it is conceded position of the case that the minor son born out of wedlock of the petitioner is residing with his mother. The mere fact that the petitioner has filed a petition seeking custody of the child cannot constitute a ground to deny maintenance to the minor child. Similarly, the petitioner cannot be heard to say that since custody of the child has not been given to him despite his having made a request in this regard, he can be exonerated of his legal liability to maintain the child. Taken from any angle, there is no merit in contentions of the petitioner.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed. The petitioner shall be at liberty to take all available pleas seeking custody of the child in appropriate proceedings. Similarly, the respondent shall be entitled to take recourse to process under law for recovery of outstanding arrears of maintenance.

15.5.2017
Meenu

(Rekha Mittal)
Judge

Whether speaking/reasoned - Yes/No
Whether Reportable - Yes/No