

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

**Crl. Misc. No.M- 46785 of 2018 (O&M)
Date of decision : 22.10.2018**

Gautam Dhiman

.....Petitioner(s)

Versus

Varunica Samaria

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ajay Kumar Sharma, Advocate
for the petitioner.

ANITA CHAUDHRY, J.(ORAL)

This petition has been filed as conditional warrants of arrest had been issued against the petitioner. The plea taken by the petitioner is that the arrest warrants have been issued without compliance of the provisions of Section 125(3) Cr.P.C. and without giving him an opportunity arbitrary.

It is necessary to refer to few facts. A petition under Section 125 Cr.P.C. was filed by the wife. An application for grant of interim maintenance was filed. After seeking reply and on hearing the parties vide order dated 15.01.2018 interim maintenance of Rs.6,000/- was allowed to the wife. The case was posted for payment and evidence.

The wife filed an application (Annexure P-6) calling upon the respondent to comply with the order. It was pleaded that there were arrears to the tune of Rs.96,000/- since maintenance had been allowed from January 2017.

Notice of that application was given to the respondent (husband) who was served. Meanwhile, the husband filed a revision against the order allowing maintenance. No stay was granted. The trial Court noticing the fact that there was no stay and as no payment had been deposited, ordered the issuance of conditional warrants for 16.08.2018.

On the adjourned hearing, the Court noticed in its order Annexure P-8 that the conditional warrants had not been issued and issued a warning to the Ahlmad and again made the same order.

The submission of the counsel is that the Court had issued the conditional warrants without being satisfied as to what was the reason for not paying the maintenance and the husband had never neglected or refused to maintain the wife and the three orders challenged by him should be set aside.

The order passed on the interim prayer for maintenance has already been challenged in revision. There is no stay in that case. Since the petitioner failed to pay the maintenance despite a specific order for payment, the wife filed an application under Section 125(3) Cr.P.C. and claimed that a sum of Rs.96,000/- was due.

The petitioner even today has been unable to show that he had cleared the amount. The petitioner has pleaded that he had paid some amount but admittedly the entire amount has not been cleared. The submission of the counsel was that he needed time to clear the payment. For that the petitioner should have approached the Court below. There is no infirmity in the order. The Court had rightly issued the conditional warrants.

It was for the petitioner to satisfy the Court below and give reasons or ask for further time. The order could not be assailed here.

The petition is dismissed.

22.10.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No