

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

**COCP No. 2288 of 2016 (O&M)
DECIDED ON: OCTOBER 17, 2019**

POONAM

.....PETITIONER

VERSUS

VIJAY KUMAR JINDAL

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Petitioner in person.

Mr. Divya Sarup, Legal Aid Counsel
for the respondent.

AVNEESH JHINGAN, J (ORAL)

The contempt petition has been filed pleading wilful disobedience of the order dated 21.08.2015 passed in CRM-M-7199 of 2014. By the said order interim maintenance granted under Protection of Women from Domestic Violence Act, 2005 (for short 'Act') was increased from ₹3000/- per month to ₹12,000/- per month.

The facts in brief necessary are that petitioner filed a petition Under Section 12 of the Act, during the pendency an application for the grant of interim maintenance was filed. The application was allowed and interim maintenance of ₹3000/- was granted.

Aggrieved of the order, both parties filed revision petitions. The revision petition filed by the respondent (in the present petition) was allowed and the revision petition preferred by the petitioner (in the present petition) was dismissed by the Additional District Judge, Kurukshetra. The petitioner

challenged the order before this Court by filing a criminal misc. application. The order passed by the Additional District Judge, Kurukshetra was set aside and the order of Judicial Magistrate Ist Class, Kurukshetra restored with modification that the amount of ₹3000/- granted for interim maintenance was increased to ₹12,000/- per month.

Aggrieved that the interim maintenance has not been paid, the present petition. This Court has been apprised by learned counsel for the respondent that the petition under the Act has been dismissed for non-prosecution on 04.06.2018 and the same has not been restored till date.

Petitioner is appearing in person. She was offered an assistance of a Legal Aid Counsel, she refused and firmly resisted the same. She further refused even to give copy of her identity proof. However, in the record there was a copy of a driving licence, which was produced with her signatures for inspection of record, her identify is being verified from the said document.

At this stage, OSD, Judicial (Listing), is called and he is asked to get the documents attached with the gate pass. Verified document received and placed on record.

The petitioner has refused to argue the matter and only submission is that the matter would be looked into by the Supreme Court.

In such circumstances, the matter is being proceeded with the assistance of legal aid counsel appearing for the respondent. He argued that the amount due as per interim maintenance is not disputed by the respondent. It is stated that cheques were handed over to the petitioner but she refused to accept the same by raising various objections.

From the perusal of the paper book, it is forthcoming that SLP (Crl)

and contempt petition were filed before the Supreme Court and during the pendency, a demand draft was handed over to the petitioner. Thereafter, the contempt petition was disposed of on 04.04.2016 and the case under the Act was transferred from Kurukshetra to Chandigarh.

The petitioner is consistently refusing to argue the matter on the ground that the matter is pending before the Supreme Court. On 21.08.2018 a prayer was made that an application is filed before the Supreme Court but she was unable to inform this Court about the details thereof, and on her request the matter was adjourned to 20.02.2019. On 20.02.2019, following order was passed:-

“ The petitioner is appearing in person. On the last date of hearing, she took adjournment on the ground that she had filed some application in the Supreme Court. However, she was unable to inform the Court about the details. Still the matter was adjourned at her request. Today, she did not wish to argue the matter but repeated the fact that she has filed some case in the Supreme Court. At this, she objected and told that she has not filed a case but filed an application against something, which she noticed in the contempt petition. However, she is neither forthcoming nor there is anything on record. At this stage, she insisted that she had filed an application in the Registry to place on record certain documents and the same has also been cleared by the Registry. However, nothing is on record and nor any receipt is available with her to show to the Court the proof of having filed any application. She does not have any copy of what has been filed by her in the Registry.

In view of the same, last opportunity is given to the petitioner, who is present in person to place the details of any matter pending before the Supreme Court as stated to have been

filed by her on record and to hand over the same to the Court in the Court itself so that there is no excuse that the same has been filed in the Registry but it has not been listed.

In case the needful is not done by the next date or she does not argue the contempt petition on the next date, the same shall be dismissed with heavy costs, for having misused the process of law.

List on 28.05.2019.

In the contempt proceedings on 14.09.2016 while issuing notice of motion, this Court noted the fact that a draft was handed over to the petitioner in SLP (CrI) No. 6183 of 2014. The petitioner clarified that the draft was for the arrears of the maintenance of ₹3000/- which was initially granted and it was alleged that no amount has been paid after the passing of the order of this Court on 21.08.2015.

On 30.08.2017, counsel for the respondent stated that cheque No. 903466, dated 09.12.2016 amounting to ₹50,000/- was handed over but same was not encashed by petitioner, adjournment was sought to pay further ₹50,000/- to the petitioner on or before 09.02.2017.

It would be relevant to reproduce the order dated 30.08.2017.

“ Learned counsel for the respondent submits that as per direction issued by this Court, one cheque amounting to ₹50,000/- was paid to the petitioner but the same has not been encashed by her.

On the other hand, petitioner, who is appearing in person submits that the cheque was not issued from the account of the respondent and the same was issued by some other person. Petitioner also submits that she now has filed an application before Hon'ble the Apex Court and requests for some time.

Learned counsel for the respondent submits that the respondent is ready to pay the amount by way of demand draft

from his own account but the petitioner is not ready to accept the same also.

On the request made by petitioner, adjourned to 6.11.2017.”

From the above-noted order dated 30.08.2017, it is evident that the petitioner never encashed the cheque handed over to her and she refused to accept even the Demand Draft from the account of the petitioner. On her request, the matter was adjourned.

Petitioner has failed to produce any proof regarding pendency of application before the Supreme Court. She further submits that she will not accept any amount in this Court, let the matter be decided by the Supreme Court.

Considering that the petitioner even today is not ready to accept any amount and for the above mentioned facts, no useful purpose would be served by keeping the petition pending.

The contempt petition is dismissed.

Rule issued against the respondent stands discharged.

OCTOBER 17, 2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes