

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

CR no.2580 of 2018

Date of Decision: 29.03.2019

Sandhya Mohanan

...Petitioner

Vs.

Gautam Grover

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms. Sharmila Sharma, Advocate, for the petitioner.
Mr. Gautam Grover, respondent in person.

Amol Rattan Singh, J (Oral)

By this petition, the petitioner challenges the orders of the learned Principal District Judge, Family Court, Gurugram, dated 22.11.2017, 15.12.2017 and 21.02.2018.

All the said orders are in the context of an application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955, claiming maintenance *pendente lite* during the pendency of the petition instituted by the petitioner against the respondent under Section 13 of the aforesaid Act.

Vide the first order dated 22.11.2017, it has been noticed by the learned Family Court that as per the respondents' application, he was suffering from cancer and was not employed anywhere and therefore was in need of financial assistance for his medical treatment as well as his traveling expenses as he had to come to Gurugram to attend the case, he being a resident of Mumbai.

It had further been noticed that the petitioner, i.e. the wife of the respondent, was stated to be earning Rs.5 lacs per month.

Vide the said order, it had further been held by the Family Court that since the petitioner (non-applicant in the application under Section 24) had not filed a reply to the application, she could not be allowed to take advantage of her wrong, and therefore till the application was decided, she would pay an interim maintenance of Rs.50,000/- per month to the applicant (respondent herein) but if it was found that he applicant was not entitled to any maintenance, he would liable to refund the same.

Thereafter, vide the order dated December 15, 2017, it was recorded that the interim maintenance ordered had also not been paid, though counsel for the petitioner before the Family court had stated that it would be paid on the next date of hearing.

On 21.02.2018, a detailed order had been passed by that court, recording therein the fact that the petitioner had stated that she was not obliged to abide by the orders passed by the Court and that she would 'think over it' as to whether she would pay maintenance or not, further stating that it was her prerogative to supply the documents to the court or not, with her attitude remaining adamant even after she was warned by the Court that she cannot flout the orders and directions given.

Upon that she is stated to have (as recorded in the order) made “random remarks” regarding courts in India and other derogatory remarks upon courts and Advocates in general. She further refused to make the payment of maintenance, despite directions given to her time and again.

It is further recorded in the said order that when counsel for the respondent herein (also respondent before that Court), cited some judgments of this Court to submit that for non-compliance of orders the petition itself could be dismissed, the petitioner got into a “verbal brawl” with the opposite counsel.

Consequently, it was recorded that the petitioner being bent upon disobeying the orders of the Court and creating disturbance in the smooth functioning thereof, with her further trying to overawe and intimidate the Court, despite being advised/warned constantly, the proceedings were “stopped by the Court”, with the petition itself, filed under Section 13 of the Hindu Marriage Act, dismissed.

It was further observed that the respondent would be at liberty to avail his remedy to recover the maintenance awarded by the court vide its previous order.

Consequently, this petition has been filed.

At the time when notice of motion was issued, the following order had been passed on 01.05.2018:-

“Inter alia contends that the husband had already got cured from the malignancy but it is a follow up treatment, therefore, liability of paying maintenance pendente lite to the husband by fastening liability on the wife @₹50,000/- per month in divorce petition filed by the petitioner-wife is not correct assessment.

Since the mother of the petitioner was not well, therefore, there was a default in the payment of arrears, resulting into dismissal of the divorce petition.

Ms. Sharmila Sharma submits on instructions from her client that the petitioner is willing to settle the matter with the respondent in case parties are called in this Court.

Notice of motion for 06.07.2018.

Dasti as well.

There shall be interim stay qua interim maintenance pendente lite beyond ₹25,000/- per month, subject to the condition that the arrears @₹25,000/- amounting to ₹2 lacs upto 30.04.2018 be cleared within a period of one month from today.

Parties are directed to appear before this Court on the next date of hearing.”

Thereafter, on March 21, 2018, the amount of Rs.2 lacs mentioned in the earlier order (dated 01.05.2018) was ordered to be corrected, to the effect that the “applicant-petitioner is directed to clear the arrears of Rs.1 lac within the time period specified by this Court”.

Today, upon query to the respondent, he submits that despite even the aforesaid orders passed by this Court, he is not being paid a penny by the petitioner.

Ms. Sharmila Sharma, learned counsel for the petitioner, does not deny that fact and further submits that despite her constantly trying to communicate with the petitioner telephonically and by way of e-mail, she is not responding in any manner whatsoever.

Despite the above, learned counsel for the petitioner submits that as a matter of fact, according to the petitioner, the respondent has sufficient resources, of his own as well as from his family, for him to sustain himself and consequently, he is not entitled to any maintenance.

Upon being asked with regard to the petitioners' own income and any application by her, supported by an affidavit, showing the properties owned by the respondent, from which he is earning income,

learned counsel for the petitioner submits that the petitioner is not willing to communicate with her.

This Court having put certain questions to the respondent as to his income presently after he has been cured of his disease, he has submitted that he had worked for some time as an ad hoc Professor in a college in Mumbai but presently again is not working anywhere as his temporary employment has not been continued in view of the fact he has to take leave time and again to come to Gurugram.

Without making any comment on that contention, and even though the petition itself under Section 13 of the Act of 1955, filed by the petitioner, has been dismissed by the trial court, (obviously because of the attitude of the petitioner as also for non-compliance of the orders passed by it, despite which no reference has been received so far by this Court, seeking that contempt proceedings be initiated against her), however, because counsel for the petitioner herself is pleading lack of instructions from the petitioner, this court is left with no choice but to dismiss the petition in default.

Ordered accordingly.

The condition contained in the interim order dated 01.05.2018 not having been complied with, it obviously stands vacated.

29.03.2019

vcgarg/nitin

(Amol Rattan Singh)

Judge

Whether speaking/reasoned : Yes

Whether reportable : no