

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-13527-2018(O&M)

Date of Decision:22.11.2019

Naveen Kumar

.....Petitioner

Versus

Archana Nogia

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Mohit Garg, Advocate,
for the petitioner.

Mr. Siddharth Gupta, Advocate,
for the respondent.

HARI PAL VERMA, J.(Oral)

CRM-6365-2019

Prayer in the application filed under Section 91 Cr.P.C. read with Section 482 Cr.P.C. is to place on record the certified/photocopies of the Income Tax returns of the petitioner for the assessment year 2013-14, 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19, respectively.

Application is allowed as prayed for and the Income Tax returns are permitted to be taken on record, subject to all just exceptions.

CRM-M-13527-2018

Petitioner has filed the present petition for quashing the order dated 27.07.2017(Annexure P-2) passed by learned Chief Judicial Magistrate, Bathinda and the order dated 07.03.2018(Annexure P-4) passed by learned Sessions Judge, Bathinda in a petition filed by the respondent,

titled as “Archana Nogia Versus Naveen Kumar”.

Vide order dated 27.07.2017, the learned Magistrate on an application filed by the respondent has granted interim maintenance to her @ Rs.20,000/- per month from the date of application till the decision of the main petition.

Aggrieved by the aforesaid order, the petitioner-husband has filed the revision petition before learned Sessions Judge, Bathinda and vide order dated 07.03.2018, the said revision petition was dismissed.

On 03.04.2018, this Court had passed the following order:-

*“Learned counsel for the petitioner contends that the petitioner herein has a gross salary of ₹50,914/- per month out of which he is paying income tax of ₹5,000/- per month, therefore, his take home salary is approximately ₹45,000/- apart from this he has a responsibility of looking after his aged parents. It is argued that the maintenance assessed @ ₹20,000/- per month is highly excessive by relying upon the judgment rendered by the Hon'ble Supreme Court in **Kalyan Dey Chowdhury vs. Rita Dey Chowdhury, 2017(2) R.C.R. (Civil) 1033** wherein it has been held that 25% of husband's net salary is just and proper to be awarded as maintenance to wife. He further submits that he is ready to settle the matter amicably. Let the matter be referred to the Mediation and Conciliation Centre of this Court.*

Notice of motion.

The parties are directed to appear before the Mediation and Conciliation Centre of this Court on 03.05.2018.

The petitioner is directed to deposit a sum of ₹22,000/- with the Registry of this Court towards litigation expenses within a period of one week. On doing so, notices be issued to the respondent for the date fixed.

In the meantime, payment of maintenance beyond a sum of ₹ 13,000/-p.m. is stayed till the next date of hearing.”

Learned counsel for the petitioner has argued that vide order dated 03.04.2018, this Court had stayed interim maintenance payable to the respondent beyond a sum of Rs.13,000/- per month and now during the pendency of the present petition, salary of the petitioner has gone down. He refers to the salary slip issued for the month of October-2019 to contend that the gross salary of the petitioner has been assessed now Rs.42,428/-, whereas the net salary payable to the petitioner is Rs.35,312/- per month. In this manner, even the interim maintenance awarded by learned Magistrate and confirmed by learned Sessions Judge, Bathinda needs to be re-visited.

At this stage, learned counsel for the respondent has argued that the petitioner has not disclosed his correct salary and he has been taking different stand as regards his salary. He refers to the salary slip of the petitioner issued for September-2013 to contend that his gross salary was Rs.62,943/-, whereas net salary payable was Rs.58,299/- per month. He further states that though vide order dated 03.04.2018, payment of maintenance beyond a sum of Rs.13,000/- was stayed, but even that order is not being honoured by the petitioner as he has not cleared the outstanding maintenance. Thus, the petitioner is in arrears of maintenance.

At this stage, learned counsel for the petitioner undertakes to clear the outstanding arrears of maintenance on the next date of hearing before the trial court, where the main petition is pending consideration.

After hearing learned counsel for the parties and considering the fact that the main dispute as regards entitlement of maintenance is already pending adjudication before the trial court, the present petition is disposed of with a direction that the petitioner will clear the outstanding maintenance @ Rs.13,000/- per month, in terms of the order dated

03.04.2018 passed by this Court on the next date of hearing fixed before the trial court and the order dated 27.07.2017 passed by the trial court is further modified to the extent that the petitioner shall pay the interim maintenance @ Rs.15,000/- per month from today onwards till the matter is finally decided by the trial court.

It is made clear that merely because the petitioner has been asked to clear the arrears of maintenance @ Rs.13,000/- per month and further to pay the interim maintenance @ Rs.15,000/- per month from today onwards, the said maintenance shall not be considered as a final entitlement and the trial court shall be well within its power to re-appraise the total evidence while granting final maintenance to the respondent. This modification in the order whereby interim maintenance was granted is only for the survival of the respondent.

November 22, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No