

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

CRR No.1171 of 2019.

Decided on:- May 15, 2019.

Arvinder Sambar.

.....Petitioner.

Versus

Sidarth.

.....Respondent.

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

Present:- Mr. Vishva Nath Sharma, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present criminal revision against the order dated 12.03.2019 passed by learned Judicial Magistrate 1st Class, Chandigarh, whereby for non-appearance on the part of the petitioner, learned Magistrate has issued conditional warrants against the petitioner.

Briefly stated, the respondent had filed an application under Section 125(3) Cr.PC seeking direction to the petitioner for payment of maintenance regularly in terms of the settlement dated 18.01.2014. The copy of compromise/settlement deed dated 18.01.2014 is attached as Annexure P-1 with this petition. The relevant paragraphs No.2 and 3 of the aforesaid settlement read as under:

“2. Now it is agreed that from January 2010 till January 2014 the maintenance has to be paid at the rate of Rs.5500/- per

month. As per the calculation made, the total arrears after deducting the amount already received is Rs.1,27,000/-.

3. As the amount had to be deposited in the Bank Account of Siddharth in Account bearing No.30084278782, SBI, the aforesaid amount of Rs.1,27,000/- would be paid by party No.2 to party No.1 on reinstatement by party No.2 within one month of getting benefits of his salary/dues in the account of Siddharth. It is further agreed that now onwards from Feb, 2014 till attaining age of majority of Siddharth i.e. 31st October 2016, the amount of Rs.5500/- would stand paid by party No.2 by credit in the aforesaid account every month.”

Since the amount of maintenance was not paid by the petitioner, learned Magistrate passed the impugned order dated 12.03.2019.

Learned counsel for the petitioner has argued that on the application filed by the respondent under Section 125(3) Cr.PC seeking direction to the petitioner to pay maintenance regularly in terms of the settlement and to pay Rs.1,44,000/- as maintenance, the petitioner has submitted reply to the said application, wherein he has submitted that he has paid maintenance for the month of December, 2015 and January, 2016. However, since the petitioner has been suspended from his service, he could not pay the maintenance and, therefore, the petitioner is ready to pay the amount in the account of the respondent within one month of getting benefits on reinstatement and the petitioner has not been reinstated yet. Moreover, in terms of the compromise deed dated 18.01.2014, on attaining the age of majority, the application under Section 125(3) Cr.PC ought to have become infructuous. As the petitioner is under suspension since the year 2009, which

fact is very much in the notice of the respondent, there is a justified reason for non-payment of maintenance.

I have heard learned counsel for the petitioner.

The impugned order dated 12.03.2019 passed by learned Magistrate reads as under:

“Today, case was fixed for payment. Learned counsel for the petitioner placed on record the calculation sheet in which it is stated that outstanding amount is Rs.1,27,000/- as per compromise/settlement deed & Para No.3 of the petition. Case called several times but neither respondent nor on behalf of him has come present. Waited sufficiently. Its already 3.30 pm. Further more wait is not justified. Let, conditional warrants be issued against respondent for 13.05.2019.”

Perusal of the compromise/settlement deed dated 18.01.2014 so entered between the parties which is signed by the petitioner does reflect that the petitioner was required to pay the outstanding amount in terms of the compromise/settlement deed dated 18.01.2014, but neither he paid the maintenance nor he has appeared before learned Magistrate, the Court below has left with no option except to issue conditional warrants.

Therefore, this Court finds that there is no illegality in the impugned order dated 12.03.2019 passed by learned Magistrate, which may warrant interference by invoking revisionary jurisdiction of this Court.

Accordingly, affirming the impugned order dated 12.03.2019 passed by learned Judicial Magistrate 1st Class, Chandigarh, present criminal revision, being devoid of any merit, is dismissed.

However, the petitioner is at liberty to approach the Court concerned along with outstanding arrears so as to keep the conditional warrants in abeyance. In case he pays the outstanding amount towards maintenance, the executing Court shall accept the amount and to pass a fresh order.

May 15, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No