

201.

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

CRR(F)-219-2016 (O&M)

Date of decision: 18.12.2019

RAJESH KUMAR

... Petitioner

versus

SUNITA & ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ashok Arora, Advocate,
for the petitioner.

Mr. Vivek Khatri, Advocate,
for the respondents.

HARI PAL VERMA, J. (Oral)

Petitioner-husband has filed the present revision petition impugning the order dated 02.05.2016 passed by the learned District Judge, Family Court, Hisar, whereby on an execution petition filed by the respondents, the learned Family Court has issued conditional warrant of arrest of the petitioner.

Briefly stated, in a petition filed by the respondent under Section 127 Cr.P.C., the learned Judicial Magistrate Ist Class, Hisar, has enhanced the maintenance of the respondents. Respondent No.1-Sunita (wife of the petitioner) was granted maintenance @ Rs.1,000/- per month, whereas respondent No.2-Poonam (daughter of the petitioner) was granted Rs.1,500/- per month and this enhancement was made effective from the date of filing of the petition under Section 127 Cr.P.C.

Counsel for the petitioner has argued that vide order dated 02.12.2009 (Annexure P-9), the learned Judicial Magistrate Ist Class, Hisar, while exercising power under Section 330 of Cr.P.C., has handed over the custody of the petitioner to Rakesh Asija, who is brother of the petitioner and till date, he is in his custody. The said custody was necessitated for the reason that the petitioner is a patient of chronic mental illness and his mental condition has been assessed by the Medical Board established under the Persons with Disability Act, wherein he was assessed as mentally disabled between 71% to 99%.

Since the respondent has disputed the mental health condition of the petitioner, this Court, vide order dated 22.10.2019, had directed the petitioner to remain present in the Court.

Thereafter, on 10.12.2019, this Court has passed the following order:-

“Pursuant to order dated 22.10.2019, the petitioner, who is assisted by his brother, is present in Court.

Learned counsel for the petitioner has produced report dated 22.09.2016 of the Medical Board, PGIMS, Rohtak, whereby the medical condition of the petitioner has been assessed by the Board and after reviewing his medical record, the Board has given its opinion that the petitioner is suffering from schizophrenic illness for the last 25 years or more. The relevant extract of the report is reproduced as under:-

“After reviewing his medical records and speaking with his brother, the members of the board were of the opinion that Shri Rajesh Asija is suffering from a chronic schizophrenic illness for the last 25 years or more. He has only had intermittent treatment; consequently the illness appears to have taken its toll on his physical and

mental health and his functioning is severely impaired. On examination, he was disheveled, appeared indifferent to his surroundings and displayed no emotional reaction to anything that was said. He was more or less mute despite several attempts to make him talk. He is apparently receiving treatment from PGIMS, Rohtak and his brother wants this to continue.”

Learned counsel for the petitioner has further argued that the aforesaid report was already in the knowledge of the respondent.

In view of the report of the Medical Board, this Court feels it necessary to call the respondent-wife in Court.

Respondent no.1 is directed to remain present in Court.

List on 12.12.2019.”

Learned counsel for the petitioner states that the report dated 22.09.2016 of the Medical Board mentioned in the order dated 10.12.2019 passed by this Court relates to the PGIMER, Chandigarh instead of PGIMS, Rohtak.

On the strength of aforesaid report, counsel for the petitioner has argued that the petitioner is a chronic case of schizophrenic illness for the last more than 25 years and, therefore, he has no source of income so as to pay to the respondent towards the awarded maintenance. While assessing the mental health condition of the petitioner and the report of the Medical Board, PGIMS, Rohtak, dated 22.09.2016, this Court has directed respondent No.1 to appear before this Court for today.

Pursuant thereto, respondent No.1 is present in person. Counsel for the respondent has filed the affidavit of the respondent in court today, which is taken on record. He has submitted that the respondent is no more

interested to pursue the case against the petitioner as regard maintenance and she undertakes not to pursue the execution proceedings filed pursuant to the order dated 25.05.2006 passed on her application under Section 127 Cr.P.C.

Considering the report of the Medical Board, PGIMER, Chandigarh, dated 22.09.2016 and the report submitted by the Medical Board, PGIMS, Rohtak, dated 28.04.2008, coupled with the statement made by the respondent, the present petition is hereby disposed of in terms of the statement of the respondent that she will not pursue her execution proceedings and would rather move an appropriate application so as to withdraw the execution.

In view of the statement made on behalf of respondent No.1, the present petition is hereby disposed of.

(HARI PAL VERMA)
JUDGE

18.12.2019

sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No