

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

CRM-M-36761-2020 (O&M)

Date of decision: 14.01.2021

Dr. Gursharan Singh

...Petitioner

Versus

Navjot Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vivek Arora, Advocate
for the petitioner.

Mr. Sushant Kareer, Advocate
for the respondents.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

CRM-994-2021

Allowed as prayed for.

Affidavit, filed by the respondents, is taken on record.

Main case

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing the orders and judgment dated 09.10.2018, 13.01.2020 and 06.10.2020 (Annexures P-1, P-2 and P-4), passed by the JMIC, Chandigarh, Additional Sessions Judge, Chandigarh and JMIC, Chandigarh, respectively.

As per affidavit, filed by the respondents, the petitioner has paid a total of Rs. 20,47,475/- till 30.06.2020.

Learned counsel for the petitioner submits that petitioner has also filed an affidavit and submits that he has deposited an amount of

Rs. 90,525/-, vide cheque dated 13.01.2021 drawn on Kotak Mahindra Bank.

Learned counsel further submits that at this stage he limits his arguments to the extent that since the petitioner stands retired w.e.f. 31.12.2020 after availing extension of six months and his pension may be around Rs. 80,000/- per month, the trial Court may be directed to decide the application under Section 127 Cr.P.C. again as the amount of Rs. 70,000/- will be too high proportionate to his pension.

In reply, learned counsel for the petitioner submits that petitioner will make the entire payment, however, as of now, he is facing financial constraints and as and when his pensionary benefits are released, he will clear the outstanding dues till 31.12.2020 as he was granted extension in service for a period of six months post his scheduled retirement on 30.06.2020, however, the date of retirement is not disputed.

Learned counsel for the respondents submits that arrears w.e.f. June, 2020 onwards are still pending.

Accordingly, in view of the above concurrence of both the parties, the present petition is disposed of and the impugned orders, passed by the Courts below, are set aside to the extent that the matter is remanded to trial Court to re-decide the application under Section 127 Cr.P.C. in view of changed circumstances that the petitioner stands retired on 31.12.2020 after availing extension of six months and his income by way of pension is reduced substantially.

Since a limited question regarding income of the petitioner is involved, the trial Court shall decide the said application preferably by taking the affidavit of both the parties, in which the petitioner will give all

the details of his pension.

It is clarified that observations made by the Additional Sessions Judge in the impugned order dated 13.01.2020 that the maintenance is payable from the date of application i.e. 14.12.2017 is upheld.

The trial Court will dispose of the case expeditiously, preferably within a period of six months from the date of receipt of a certified copy of this order.

14.01.2021
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No