

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. M-33888 of 2019 (O&M)
Date of decision : January 06, 2021

Mohit

....Petitioner

versus

Pooja

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present: Mr. Rahul Bhargava, Advocate for the petitioner
Mr. Vivek Goyal, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

In this petition under Section 482 Cr.P.C. the petitioner husband Mohit has sought quashment of the orders dated 2.8.2019 Annexure P/14 passed by the learned Family Court, Kurukshetra whereby the court had issued conditional warrants of arrest against the petitioner-husband.

Upon hearing arguments of the two sides and perusal of the records.

It is undisputedly well writ large on the records that Mohit and Pooja are husband and wife who had fallen apart. It is during the course of events, the wife preferred an application under Section 125 Cr.P.C. and in which she also sought a prayer through separate

application for grant of interim maintenance during the pendency of the main petition. The court of learned Judicial Magistrate Ist Class, Kurukshetra allowed a sum of Rs 5000/- per month to the wife. However, upon revision, by the wife over insufficiency of this amount, the court of learned Additional Sessions Judge, Kurukshetra vide orders dated 19.4.2018 enhanced the maintenance to Rs 30,000/- per month. When the husband failed to pay the maintenance arrears in spite of repeated orders by the court led to passing of impugned order dated 2.8.2019 by the Principal Judge, Family Court, Kurukshetra Annexure P/14 whereby the court below holding that the husband was reticent to pay the maintenance amount and thus the court was forced to issue conditional warrants of arrest. The same is subject matter of challenge before this Court.

Heard.

It is not displaced by any means that as on date orders of the learned Additional Sessions Judge, Kurukshetra dated 19.4.2018 whereby interim maintenance of Rs 30,000/- has been awarded to the wife and which holds good as on date and which could not be denied by counsel for the petitioner. It is not the case of the petitioner's counsel that the petitioner has obeyed the orders of the maintenance passed by the court. His total denial of the maintenance to the wife is reflected from the orders under challenge that the accused on one pretext or the other tried to evade his obligation to pay the

maintenance amount and which has led to the passing of impugned orders. Second proviso to Section 125 Cr.P.C. enjoins that application for interim maintenance and expenses needs to be disposed of within 60 days from the date of service of notice which is provided in the third proviso to this Section. Section 125(3) Cr.P.C. ensures that where the person so ordered to pay maintenance fails without sufficient cause to comply with the orders, the Magistrate may for every breach of the orders issue warrants for levying the amount including warrants within a period of one year from the date when it became due. To the specific query of the Court, counsel for the petitioner could not show by any means having complied with this order of maintenance which holds good as on date. How there has been wrong exercise of powers by the Court below or miscarriage of justice necessitating intervention by this Court. In the light of what has been detailed in the impugned order, this Court does not feel that there has been any illegality or perversity. The order is perfectly legal and valid in the eyes of law and needs to be upheld. There is no merit in the present petition and the same stands dismissed.

January 06, 2021
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No