

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

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CRM-M-52210 of 2021 (O & M)
Date of decision : 14.12.2021.

Rukmuddin

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Khalid, Advocate for the petitioner.

SUVIR SEHGAL, J.

Heard through video conferencing.

Vide the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of conditional warrant of arrest issued in Criminal Miscellaneous Application No.8 of 2021 passed by the learned Additional District and Sessions Judge, Mewat on 02.12.2021, Annexure P-4, as well as all subsequent proceedings arising therefrom.

Counsel for the petitioner urges that respondent No.3 is the wife of the petitioner, who has been awarded a monthly maintenance of Rs.6000/-; besides, Rs.3000/- per month as maintenance for the minor child and Rs.2000/- as litigation expenses vide ex parte judgment dated 04.12.2020, Annexure P-2, in proceedings initiated under Section 125, Cr.P.C., despite the fact that respondent No.3 had left the matrimonial home without any reason and the petitioner had filed a petition seeking restitution of conjugal rights. Counsel contends that the Family Court erred in granting maintenance to the private respondent and the petitioner is not liable to deposit the awarded maintenance amount as the application for setting aside exparte proceedings is yet to be adjudicated.

Having heard counsel for the petitioner, this Court is of the view that no interference is called for in the impugned order.

An examination of the order passed by the Family Court under Section 125 Cr.P.C. shows that the application filed by the respondent-wife was initially contested by the petitioner by filing a reply. However, when the matter was fixed for 09.12.2019 for the purpose of compromise, neither the petitioner nor his counsel appeared before the Court and the petitioner was proceeded against ex parte. On the basis of the evidence led by the private respondent, the Court on the basis of presumption came to the conclusion that the petitioner, who is an abled body person, is assumed to be earning Rs.15,000/- to Rs.20,000/- per month which is the basic daily wage of labour and on the basis of the same proceeded to determine the maintenance amount. The mere fact that the petitioner had filed a petition for restitution of conjugal rights will not advance his case as the petition was subsequently dismissed on account of default appearance of his counsel vide order dated 08.11.2019, Annexure P-1. The respondent-wife had filed an execution petition in which conditional warrants were issued vide impugned order and the Court has observed that in case the petitioner deposits the maintenance amount, the petitioner should be released. However, the petitioner has not deposited the amount, nor any offer for payment has been made during the course of hearing before this Court. Pendency of application for setting aside exparte proceeding does not absolve the petitioner from his responsibility.

Finding no merit in the petition, it is ordered to be dismissed with no order as to costs.

14.12.2021

(SUVIR SEHGAL)
JUDGE

sheetal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No