

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

CRM-M No.50177 of 2019 (O&M)

Date of Decision:20.08.2021

(Heard through VC)

Jyoti Chhabra

...Petitioner

Versus

Ajay Chhabra

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H.S. Saini, Advocate
for the petitioner.

Ms. Dhivya Jerath, Advocate
for the respondent.

Mr. Tarun Singhal, Advocate
for the applicant in CRM No.25963 of 2021.

JAISHREE THAKUR, J. (ORAL)

CRM No.25963 of 2021

This crl. misc. application has been filed for impleading the applicant-Ramesh Chhabra wife of Gopi Chand Chhabra as respondent No.2, with further prayer to direct respondent No.1 to clear the arrears of Rs.15,50,000/- as SLP No.3057 of 2021 filed by him has been dismissed in the Hon'ble Supreme Court.

The applicant herein is mother of Ajay Chhabra, who is respondent in these proceedings. It is stated that the applicant, who is a senior citizen of 76 years suffering from various ailments, requires maintenance for a sum of Rs.25,000/- for maintaining herself. It is further contended that the applicant herein had filed a petition for maintenance

under Section 125 Cr.P.C. in which proceedings, her son i.e. respondent herein had undertaken to pay a sum of Rs.20,000/- per month to the applicant-mother. On failure to do so, a contempt petition was filed before the High Court bearing COCP No.162 of 2021 claiming that the said amount was not being deposited as per the undertaking, which contempt petition was rendered infructuous as the counsel appearing for Ajay Chhabra had submitted that an amount of Rs.20,000/- would be deposited in the account of the applicant by 5th of each month. It is further submitted that against the said order, SLP was filed by Ajay Chhabra, which came to be dismissed by an order dated 01.03.2021.

Learned counsel appearing on behalf of the applicant seeking impleadment would submit that she is a necessary party in these proceedings, as her son Ajay Chhabra has failed to comply with the said undertaking given and therefore, an amount of Rs.15,50,000/- is due to her.

I have heard learned counsel for the applicant and find that there is no ground to allow the impleadment application, considering the fact that the proceedings pending in the High Court in CRM-M No.50177 of 2019 has been filed by Jyoti Chhabra against Ajay Chhabra son of the applicant claiming penal action to be taken against said Ajay Chhabra for willfully disobeying the interim order dated 23.12.2016, 09.05.2018, 02.08.2019 and 10.09.2019, while further praying for attachment of the salary of the respondent as he is in arrears of approximately Rs.5,50,000/-. No relief has been claimed by the petitioner against the applicant herein and the grievance is only against Ajay Chhabra. In case the applicant has any grievance against her son Ajay Chhabra for non-compliance of orders

passed on the basis of undertaking given, she would always be at liberty to approach the appropriate forum in independent proceedings.

No ground for impleadment is made out. Consequently, the instant application stands dismissed.

CRM-M No.50177 of 2019

This is a petition that has been filed under Section 482 Cr.P.C. for issuance of direction to the trial court to take appropriate penal action against the petitioner for willful disobedience of interim orders dated 3.12.2016, 09.05.2018, 02.08.2019 and 10.09.2019 either in attaching his salary or issuing warrant of arrest against him.

Counsel for the petitioner herein would contend that the petitioner-Jyoti Chhabra was married to respondent-Ajay Chhabra on 22.01.2004 as per Hindu rites and ceremonies, however, on account of domestic violence, she was constrained to file a petition under the Domestic Violence Act before the Court at Panchkula. By an order dated 23.12.2016, the respondent-husband was directed to provide a separate accommodation to the petitioner for which he was liable to pay upto Rs.15,000/- per month on submission of rent note by the petitioner in the Court. The said order was challenged before the Additional Sessions Judge, Panchkula by way of criminal appeal, however, the said appeal came to be allowed vide order dated 08.08.2017 and the amount of Rs.15,000/- was reduced to Rs.10,000/- per month for providing separate accommodation to the petitioner-wife herein on submission of rent note.

The aforesaid order passed by the Additional Sessions Judge, Panchkula was challenged by the petitioner-wife by filing CRR No.4008 of

2017 as she was aggrieved against the reduction in the amount assessed by the JMIC whereas the respondent-husband also preferred CRR No.3791 of 2017 against the said order whereby he had been fastened with the liability of paying Rs.10,000/- per month. The aforesaid revision petitions were disposed of by a common order dated 25.02.2019 whereby the revision petition filed by the husband-Ajay Chhabra in CRR No.3791 of 2017 had been dismissed whereas revision petition filed by the wife-Jyoti Chhabra in CRR No.4008 of 2017 was allowed and the order passed by the JMIC, Panchkula whereby the husband was directed to pay amount upto Rs.15,000/- per month to the wife for providing separate accommodation on submission of rent note was affirmed. This order too was challenged by the respondent-husband herein by filing application for modification of the order, which was dismissed on 01.05.2019. Both the aforesaid orders passed by the High Court were again challenged before the Hon'ble Supreme Court by way of Special Leave to Appeal (Crl.), however, the same stood dismissed on 01.07.2019.

Preliminary proceedings were also initiated by the petitioner-Jyoti Chhabra seeking compliance of the orders passed allowing her arrears of rent wherein pleas were taken that she had not furnished the rent note. It was held that there was a rent note available on file, however, the payment was not being made and therefore, opportunity was granted to the respondent to make payment of arrears for providing separate accommodation. Thereafter, execution application was filed before the Chief Judicial Magistrate, Panchkula in which an application for attachment of salary of respondent for non-payment of arrears under the Domestic

Violence Act was also preferred.

The Chief Judicial Magistrate, Panchkula directed the respondent-husband to clear arrears of maintenance qua rent for separate accommodation, apart from directing the respondent to keep depositing monthly amount of Rs.15,000/- into the account of the petitioner. The respondent deposited an amount of Rs.50,000/-, Rs.30,000/- and further Rs.40,000/- into the account of the complainant, however, as there was no order passed on the application filed for attachment of the salary on account of non-payment of arrears of maintenance, the instant petition has been filed.

Learned counsel appearing on behalf of the petitioner herein would argue that there is non-compliance of the orders as passed by the Courts below regarding payment of upto Rs.15,000/- as rent for separate accommodation whereas learned counsel appearing on behalf of the respondent would submit that the petitioner herein is not handing over the rent note by which she was supposed to take accommodation on rent and therefore, she herself had not complied with the said orders.

I have heard counsel for the parties and have also perused the orders as passed by the Executing Court.

There is no dispute as far as orders passed by the JMIC in proceedings that were initiated under the Domestic Violence Act wherein the petitioner has been allowed an amount of upto Rs.15,000/- per month towards separate accommodation on furnishing a rent note. Once the execution petition has been filed and applications have been filed therein for attachment of salary in case there is default of payment, it becomes

incumbent upon the executing court to deal with such application. A perusal of the order passed by the Executing Court on 09.10.2019 would reveal that the counsel for the respondent had sought time to clear the arrears, while also taking note of the fact that the rent agreement has been placed on record and copy of the same supplied to the respondent.

In view of the aforesaid facts and circumstances, this Court deems it appropriate to remand back the matter to the executing court to dispose of the application for attachment of salary in case of default of payment of arrears of rent within a period of three months from the date of receipt of certified copy of this order in accordance with law. The instant petition stands disposed of in the above terms.

August 20, 2021
Pankaj*

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No