

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

116

CRR (F)-169-2022

Date of decision :09.03.2022

Aman Singla

...Petitioner

Versus

Archit Singla

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ishan Kaushal, Advocate and
Mr. Arun Attri, Advocate for the petitioner.

SUVIR SEHGAL, J.

Challenge in the instant revision petition is to the order dated 08.02.2022 passed by Principal Judge, Family Court, Yamuna Nagar at Jagadhri, whereby objection filed by the judgment debtor- petitioner has been dismissed.

Facts, in brief, may be noticed.

Alka was married to Aman Singla, present petitioner, on 15.06.2012. However, the parties could not stay together for long as Alka was harassed and ill-treated on account of bringing insufficient dowry. A complaint was given at Police Station Tripadi, Patiala and a compromise was effected on 23.06.2013 but on 01.07.2013, she was physically assaulted. She moved another application to the police on 04.07.2013 and approached the Court by filing a petition under Section 125 of the Code of Criminal Procedure (for short – the Code) claiming maintenance for herself and her minor son, Archit Singla, present respondent, who is aged about 09 years.

Vide judgment dated 29.09.2018, Annexure P-1, learned Additional Chief Judicial Magistrate, Yamuna Nagar, dismissed the petition qua Alka and held the respondent to be entitled to a monthly amount of

Rs.10000/- as maintenance from the date of the filing of the petition. An execution application dated 17.12.2018, Annexure P-2, was filed, which was contested by the judgment debtor-petitioner by filing reply, Annexure P-3. The judgment debtor-petitioner claimed that the amount paid by him to Alka deserves to be adjusted against the amount awarded to the respondent. This plea of the petitioner did not find favour with the Executing Court and has been turned down vide order impugned herein.

Heard counsel for the petitioner.

While partly allowing the petition filed under Section 125 of the Code by Alka and her minor son, present respondent, learned trial Court passed the following order on 29.09.2018, Annexure P-1: -

“18. So from all these circumstances, this court has come to the conclusion that petitioner no.1 has remained unable to substantiate her allegations of cruelty by leading any positive evidence, which was allegedly the reason for her to leave her matrimonial home. In other words, the petitioner no.1 has failed to prove that she had left the matrimonial home with a reasonable excuse or reason. Accordingly, the petitioner no.1 is barred from claiming maintenance as per Section 125 (4) Cr.P.C.

19. As far as petitioner no.2 is concerned, there is no dispute that he was born out of the wedlock of petitioner no.1 and respondent and presently residing with the petitioner no.1 and accordingly, the respondent is duty bound to maintain his minor son petitioner no.2.

20. As a sequel to the observations as mentioned above, the present petition of the petitioners stands partly allowed with no order as to cost and the respondent is

directed to pay an amount of Rs.10,000/- per month to the petitioner no.2 as maintenance from the date of filing of the present petition. However, petition qua petitioner no.1 stands dismissed.”

Vide interim order dated 18.02.2015, the trial Court awarded both the claimant Rs.5000/- per month as pendente lite maintenance which order remained in force till the culmination of the proceedings. In the final order passed by the trial Court which has been reproduced above, there is no direction for the adjustment or refund of the interim maintenance granted to the wife Alka.

The Executing Court cannot go behind the decree and is justified in its view that it cannot order set off or adjustment of the amount paid under the interim order.

This Court is of the view that there is no illegality or irregularity in the order passed by the Executing Court.

Consequently, the present petition is ordered to be dismissed.

09.03.2022
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(SUVIR SEHGAL)
JUDGE

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