

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 203

CRM-M-36984-2017

Date of decision : 20.04.2022

Gurmeet Singh

..... Petitioner

VERSUS

Kuljeet Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.J.S.Lalli, Advocate, for the petitioner.

Mr.Ishnoor Singh, Advocate, for
Mr.Vikram Singh, Advocate, for the respondent.

DEEPAK SIBAL, J. (ORAL)

The petitioner and the respondent got married on 23.11.2009. Differences arose between them which led to the lodging of a FIR by the respondent against the petitioner being FIR No.141 dated 02.07.2010 under Sections 406, 498-A, 323 and 506 IPC at Police Station Sadar, Kaithal. During pendency of the proceedings in pursuance of the said FIR the respondent preferred an application under Section 125 Cr.P.C. claiming therein maintenance from the petitioner which was allowed by the Trial Court on 11.07.2012 as a result whereof the petitioner was directed to pay to the respondent monthly maintenance @ Rs.5,000/- from the date of the filing of the application. In the meanwhile, through decree dated 24.07.2012 the respondent got divorce from the petitioner and thereafter she remarried in November, 2015. Since the petitioner was in arrears of maintenance, on 07.05.2016, the respondent filed an application before the Executing Court. In such proceedings the petitioner failed to put in appearance leading to the issuance of conditional warrants for his arrest. On coming to know of the same, the petitioner has preferred the present petition before this Court through which he not only challenged the issuance of conditional warrants for his arrest but also the very initiation of the execution proceedings by the respondent primarily on the ground of her remarriage.

Learned counsel for the petitioner submits that since the respondent has remarried she is not entitled to claim any maintenance from the petitioner.

Per contra, learned counsel for the respondent submitted that the respondent was seeking execution of the order of the Trial Court dated 11.07.2012 which had never been challenged by the petitioner and since her claim for arrears of maintenance was for a period prior to the respondent's remarriage the same was not only maintainable but the claimed arrears were also payable by the petitioner.

On 23.11.2009 the petitioner and the respondent got married and were divorced on 24.07.2012. In the meanwhile, in the proceedings initiated by the respondent under Section 125 Cr.P.C., through order of the Trial Court dated 11.07.2012, she was awarded monthly maintenance @ Rs.5,000/-. The maintenance was payable from the date of the filing of the application. Such order was not challenged by the petitioner and therefore it attained finality.

The respondent remarried in November, 2015. Admittedly, through the impugned execution proceedings she seeks from the petitioner arrears of maintenance for a period prior to her remarriage. Thus, her claim is for the period she was the petitioner's wife. She could certainly do so. Her getting married on a later date would have no effect on such claim. Therefore, the only ground pressed before this Court that the impugned execution proceedings, on account of the respondent's remarriage would not be maintainable, in the facts of the present case, has no merit.

Dismissed.

The petitioner is directed to appear before the Executing Court within one month from today and if he does so within such period he shall be admitted to ad interim bail to the Executing Court's satisfaction.

It is clarified that the dismissal of the present petition would not debar the petitioner from raising all other legally permissible objections/pleas which have not been taken in the present petition before the Executing Court.

20.04.2022
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No