

CRM-M-43540-2022

PARSHANT DUBEY
VS
NISHA DUBEY AND ANR

Present: Mr. Ashok Tyagi, Advocate
for the petitioner.

Petitioner has approached this Court for setting aside the order dated 20.05.2022 passed by the Principal Judge, Family Court, Gurugram in application under Section 127 Cr.P.C. dated 13.10.2020 filed by the petitioner.

It is submitted by learned counsel for the petitioner that there are two proceedings pending before the Courts below. One is under Section 127 Cr.P.C. which has been initiated by the petitioner whereas other proceeding is pending before the executing Court for the satisfaction of the order passed under Section 125 Cr.P.C. He has submitted that he is aggrieved by the impugned order to the extent that the learned Family Court has directed him to appear before the executing Court and clear the maintenance failing which the present petition filed by the petitioner filed under Section 127 Cr.P.C. would be dismissed. He further submits that both the proceedings are independent and learned Family Court has already decided to dismiss his petition filed under Section 127 Cr.P.C. in case he fails to deposit the arrears in the executive proceedings. He has contended that the petitioner is keen to appear before the executing Court and the Id. Court

should decide the case, after hearing the petitioners, as in accordance with law. But the Id. Family Court has already decided the fate of the petition filed by the petitioners under Section 127 Cr.P.C., in case he fails to clear the arrears in the executing proceedings.

Heard.

Keeping in view the submissions made by learned counsel for the petitioner and perusing the record, this Court finds that the petitioner is facing litigation in two different proceedings one of which is under Section 127 Cr.P.C. and other is before the executing Court.

In the facts and circumstances, learned trial Court is directed that in case the petitioner appears before the Court concerned, then both the petitions i.e. the petition under Section 127 Cr.P.C. and the proceedings before the executing Court be decided independently on their respective merits, after hearing the petitioner, as in accordance with the law.

The impugned order is modified to that extent.

Disposed of accordingly.

(RAJESH BHARDWAJ)
JUDGE

20.09.2022

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