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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-813-2022(O&M)

Date of Decision: September 08, 2022

Akshpreet Singh

.....Petitioner

Versus

Jaspreet Kaur and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.B.S.Bhalla, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

The petitioner has approached this Court by way of filing the present revision petition wherein the order dated 17.08.2022 passed in the execution petition titled as **Jaspreet Kaur vs Akshpreet Singh** by learned Additional Principal Judge, Family Court, Ludhiana, has been impugned.

It has been contended by counsel for the petitioner that petitioner was married with respondent No.1 on 11.05.2007 according to Sikh rites and ceremonies. Out of the wedlock, they have a son born on 11.05.2008. Thereafter, the matrimonial discord took place between the husband and the wife and respondent No.1 alongwith respondent No.2 left the matrimonial home. Respondent No.1 filed the petition under Section 125 Cr.P.C. praying for grant of maintenance. Both the sides led their evidence before the Family Court and after hearing both the sides, the learned JMJC, Ludhiana, allowed the petition under Section 125 Cr.P.C. vide order dated 03.08.2016 by granting the maintenance @ Rs.9,000/- per month to respondent No.1-wife and @ Rs.7,000/- per month to respondent No.2-minor from the date of institution of that petition filed by the

respondents. Both the petitioner-husband as well as the respondents-wife and the minor assailed the same by way of filing separate revision petitions before the learned Additional Sessions Judge, Ludhiana, however, the revision petition filed by the petitioner-husband was dismissed whereas the revision petition filed by the respondent-wife and the minor was accepted by enhancing the maintenance for the wife from Rs.9,000/- per month to Rs.11,000/- per month and for respondent No.2-minor from Rs.7,000/- per month to Rs.9,000/- per month from the date of that order. Thereafter, the respondents filed execution petition for recovery of the arrears of maintenance, as awarded by both the Courts below.

Counsel for the petitioner contends that the petitioner-husband filed the objections to the execution filed by the decree-holders. He has contended before the Executing Court that the entire amount has been paid as per order dated 13.07.2017. He further contends that as per the order dated 13.07.2017, enhancement was from the order dated 13.07.2017, i.e., the date of decision in the revision petition and not from the date of order passed by the learned JMIC, i.e. 03.08.2016. He submits that learned Executing Court declined the same and has held that decree-holder are entitled to the enhanced amount of maintenance from the date of their original application, which was filed in the year 2013 and decided on 03.08.2016 by the Court of learned JMIC, Ludhiana, vide impugned order dated 17.08.2022. He submits that the Executing Court has travelled beyond its jurisdiction by passing the impugned order. He has submitted that as per the law settled, the Executing Court cannot go beyond the decree as the learned Revisional Court had allowed the revision petition filed by

maintenance from the date of order passed by the revisional Court, i.e. 13.07.2017 and not from the date of the application filed by respondent Nos.1 and 2 as held by the Executing Court. He has submitted that the impugned order is unsustainable in the eyes of law and the same deserves to be set aside.

Heard.

Relationship between the petitioner and the respondents is not in dispute. After the matrimonial discord, respondent No.1 moved out of the matrimonial home alongwith respondent No.2. Thereafter, she filed the petition under Section 125 Cr.P.C. praying for maintenance in the year 2013. The same was decided by the learned JMIC Ludhiana, vide its order dated 03.08.2016. Both the petitioner and the respondents assailed the same by way of filing their respective revision petitions which were disposed of by the revisional Court by consolidated order dated 13.07.2017. The revision petition filed by the respondents was accepted by enhancing the maintenance of respondent No.1-wife from Rs.9,000/- per month to Rs.11,000/- per month and from Rs.7,000/- per month to Rs.9,000/- per month for respondent No.2-minor and thus, the total maintenance was enhanced from Rs.16,000/- per month to Rs.20,000/- per month. Para 15 of the judgment of the revisional Court reads as under:-

“15. Taking into account, the respondent was earning gross salary of Rs.53,000/- in the year 2014, the grant of maintenance at the rate of Rs.9,000/- per month to applicant no.1 and Rs.7,000/- to applicant no.2, seems to be an adequate and unsound, considering the fact that the applicant is entitled to maintain a same status, which she has enjoying while living with the respondent. Besides this she is also discharging the responsibility of the educational for the child of the parties,

therefore, in the considered opinion of this Court, an amount of Rs.20,000/- should have been awarded to the applicants to enable them to maintain themselves.”

Hence the revisional Court modified the maintenance granted by enhancing the same to the tune of Rs.11,000/- per month for respondent No.1-wife and Rs.9,000/- per month for respondent No.2-minor from the date of the order.

From the reading of the order, it is apparent that the learned revisional Court was of the opinion that in the light of the earning of the petitioner-husband in the year 2014, the respondents were granted inadequate maintenance by the learned Family Court in the year 2016. Even otherwise, a further reading of the order would show that the order which was under challenge was the order of the learned Family Court, dated 03.08.2016. Thus, the reference made by the learned revisional Court regarding the date of the order would relate to the order impugned in the revision petition. Even otherwise, as per the law settled in Rajesh vs Neha and another(2021) 2, Supreme Court Cases 324, the respondents are entitled for the maintenance from the date of filing of the petition under Section 125 Cr.P.C..

Weighing the facts and circumstances of the case on the anvil of the law settled, this Court does not find any infirmity in the order dated 17.08.2022 passed by learned Executing Court. Resultantly, the petition being devoid of any merit is hereby dismissed.

September 08, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No