

**In the High Court for the States of Punjab and Haryana at
Chandigarh**

**CRM-4637-2022 in/and
CRM-M-4238-2022 (O&M)
Date of Decision: February 15, 2022**

Amit Makani

... Petitioner

Versus

Sunita Rani and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Gaurav Antwal, Advocate,
for the petitioner.

Vivek Puri, J.

CRM-4637-2022

The applicant-petitioner seeks to place on record the certified copy of the impugned order (Annexure P/2). The same is taken on record.

Registry is directed to tag Annexure P/2 at the appropriate place.

Application is disposed of.

CRM-M-4238-2022 (O&M)

The petitioner has assailed the impugned order dated 18.01.2021 (Annexure P/2) passed by the learned Additional Civil Judge (Senior Division), (sic Judicial Magistrate) Sirsa in the complaint case bearing No. COMA/1463/2013, date of institution 16.01.2012/12.08.2016 to the extent whereby the amount of Rs. 5,000/- deducted from the salary of the petitioner as maintenance of Kanchan after her death has been ordered to be adjusted against the arrears and the order dated 01.11.2021

(Annexure P/3) passed by the learned Sessions Judge, Sirsa, whereby the criminal revision filed by the petitioner has been disposed of with a direction the Executing Court to calculate the arrears payable by the petitioner after deducting the excess amount paid by him.

Sunita Rani, respondent no.1, is the wife of the petitioner. She along with her minor daughter Kanchan @ Kannu and minor son, namely, Chirag instituted a petition under Sections 3, 12, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act against the petitioner and his father. In terms of the order dated 03.01.2017, the learned Judicial Magistrate awarded the monetary relief to the extent of Rs.10,000/- per month from the date of application in favour of Kanchan @ Kannu and Chirag.

It has been stated that the directions were issued to the employer of the petitioner for deduction of the amount to the tune of Rs.10,000/- per month for disbursement to the minor children.

Unfortunately, Kanchan @ Kannu, the minor daughter of the petitioner and respondent no.1 died on 30.01.2020.

The petitioner had submitted an application for issuance of directions to his employer i.e. the Headmaster, Government High School, Village Ban Sudhar, District Sirsa not to deduct the amount of Rs. 5,000/- from his salary qua the maintenance of the deceased Kanchan and directing the respondent no.1 to refund the amount received after the death of Kanchan.

In terms of the impugned order dated 18.01.2021, the learned trial Court has concluded that the petitioner is not liable to pay Rs. 5,000/-

as maintenance towards Kanchan and the necessary intimation was sent to the Principal, Government High School, Ban Sudhar, District Sirsa to the effect that only a sum of Rs. 5,000/- be deducted from the salary of the petitioner. The application was allowed to that extent. However, it was observed that it was a specific version of respondent no.1 that amount of Rs. 2,01,000/- are the arrears to be paid by the petitioner. It was also observed in the impugned order that the petitioner remained silent on this point and it was directed that the amount of Rs. 5,000/- as deducted from the salary of the petitioner after the death of Kanchan, shall be adjusted against the arrears due payable by the petitioner.

The petitioner had challenged the said order by way of revision and the same has been dismissed by the learned Court of Sessions and in terms of the order dated 01.11.2021, it was directed that the learned Executing Court shall calculate the arrears payable by the petitioner after deducting the excess amount payable towards Kanchan (since deceased) for the period from 30.01.2020 to 29.01.2021 and the balance amount of arrears of maintenance shall be paid within a period of two months.

The learned counsel for the petitioner has mainly contended that the respondent no.1 had concealed the fact with regard to the death of minor Kanchan and excess amount from the salary has been deducted. It has been argued that the impugned order is liable to be set aside to the extent that the excess amount deducted after the death of minor Kanchan has been sought to be adjusted towards the arrears due payable to Chirag.

On a specific query, the learned counsel for the petitioner has stated that the arrears of maintenance are due payable. In such

circumstances, it cannot be said that the liability to pay the arrears of maintenance has been disputed by the petitioner. Furthermore, in the event, the respondent no.1 had not brought the fact of death of minor Kanchan before the Court, it cannot be termed to be a circumstance to pass any adverse order against the minor Chirag, particularly because, the liability for payment of arrears to him has not been disputed. The Courts below have been fair enough to direct that the amount of interim maintenance paid subsequent to the death of Kanchan is liable to be adjusted towards the arrears of maintenance due payable to the minor Chirag. The directions could have been faulted with in the event the material on record indicated that no such arrears are due payable by the petitioner to the minor son.

Furthermore, in the event, any order as sought by the petitioner is passed, the same will adversely effect the minor Chirag and it is significant to note that he has not been impleaded as a party in the present petition.

Keeping in view the totality of the circumstances, no reasonable or justified ground is made out to interfere in the impugned orders in any manner. Consequently, the present petition is dismissed.

February 15, 2022
vkd

[Vivek Puri]
Judge

<i>Whether speaking / reasonable</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>