

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 171 of 2023****Date of Decision: 17.08.2023**

Deepak

... Petitioner(s)

Versus

Pinki and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Naveen Siwach, Advocate
for the petitioner(s).Mr. Narender Kaajla, Advocate
for the respondents.**Anil Kshetarpal, J.**

1. On 20.01.2023, the co-ordinate Bench has passed the following order:-

“Learned counsel for the petitioner inter alia contends that three separate proceedings are pending between the petitioner and the respondents. One being under Section 125 Cr.P.C., the other being an application under Section 24 of the Hindu Marriage Act, 1955 and the third being under Sections 18/20 of the Hindu Adoption and Maintenance Act, 1956. In all the three proceedings, the same Family Court vide order dated 11.11.2022 of even date, has awarded interim maintenance to the tune of Rs.12,000/- p.m. i.e. Rs.9,000/- to the wife and Rs.3,000/- to the minor child.

Civil Revision No. 171 of 2023

Against the order passed under Section 125 Cr.P.C., the petitioner has challenged the same before this Court by way of CRR(F)-25-2023, in which notice has been issued for 22.05.2023 and the petitioner has been directed to pay a sum of Rs.6,000/- p.m. with a further direction to clear the arrears considering the maintenance @ Rs.6,000/- p.m. before the next date of hearing. Accordingly, the said impugned order beyond Rs.6,000/- towards maintenance has been stayed.

Learned counsel for the petitioner submits that it is well settled that even if the maintenance has been awarded under different proceedings, the cumulative amount to be paid is after adjusting the respective amount in other proceedings, meaning thereby that the higher of the award amount was to be paid. In the present case, the same Family Court on similar evidence has passed verbatim orders in separate proceedings against the same parties and in view of the interim order dated 09.01.2023 passed by this Court in CRR(F)-25-2023, similar indulgence is called for in the present facts and circumstances.

Notice of motion returnable for 22.05.2023.

In the meantime, the impugned order beyond Rs.6,000/- towards maintenance shall remain stayed. The petitioner is directed to clear the arrears considering the maintenance @ Rs.6,000/- p.m. along with Rs.11,000/- litigation charges determined vide impugned order in the present case, before the next date.”

2. The learned counsel representing the respondent does not dispute that the amount of maintenance payable under Section 125 of the Code of Criminal Procedure, 1973, an application under Section 24 of the Hindu Marriage Act, 1955 as well as on an application under Section 18/20 of the Hindu Adoption and Maintenance Act, 1956, is required to be adjusted against the payment of each other. Thus, in substance, the total amount of maintenance payable by the petitioner comes to ₹12,000/- per month which includes ₹9,000/- for the wife and ₹3,000/- for the minor daughter.

3. The learned counsel representing the petitioner contends that due to the COVID-19 pandemic, the petitioner had to close down his Gym and he also met with an accident which has resulted in reduction of his earning capacity.

4. On the other hand, the learned counsel representing the respondent submits that the petitioner is owner of three houses and he is living with some other lady.

5. In a revision petition, the Court is required to examine the legality and propriety of the impugned order passed by the Family Court. On the basis of the material produced before the Family Court, the maintenance @ ₹12,000/- per month has been ordered. Any change in the circumstances enables the petitioner to file an application for modification before the Family Court. However, the revision petition, this Court does not find it appropriate to consider a new plea which was not taken before the Family Court.

6. With the observations made above, the revision petition is dismissed.

August 17, 2023

“DK”

(Anil Kshetarpal)
Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No