

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 123

Criminal Miscellaneous No.M-1121 of 2023

Date of Decision: *February 02, 2023*

Amardeep

..... PETITIONER(S)

VERSUS

Geeta Rani

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

. . .

PRESENT: - Mr. Bikram Chaudhary, Advocate for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition filed for setting aside the order dated 12.12.2022 (Annexure P-10) passed by the Executing Court, Principal Judge, Family Court, issuing conditional warrants of arrest in execution proceedings (Exe. No.1527 of 2019 titled as *Geeta Rani vs. Amardeep*) initiated to execute the order dated 05.09.2019 passed on a petition filed by the respondent-wife under Section 125 Cr.P.C., wherein she was awarded monthly maintenance of ₹6,000.

Learned counsel for the petitioner has contended that conditional warrants of arrest vide impugned order dated 12.12.2022 (Annexure P-10), have been wrongly issued without affording any opportunity of hearing to the petitioner. The order is, therefore, not sustainable. Besides, it has been contended that the respondent-wife is herself earning. The fact was concealed by her. On that ground, the petitioner has filed an application under Section 127 Cr.P.C., claiming that

she is not entitled to any maintenance. Therefore, he is not liable to pay the maintenance awarded, and the conditional warrants could not have been issued.

As apparent on record, the respondent-wife was awarded maintenance of ₹6,000 per month from the date of filing of the petition, and litigation expenses of ₹7,500, vide order dated 05.09.2019 (Annexure P-1). The same was not paid by the petitioner-husband leading to filing of an execution application dated 15.10.2019 (Annexure P-4). Still the amount awarded remained unpaid, and the petitioner had to be taken in custody and committed to civil imprisonment up to 12.10.2021 or till payment of the amount of maintenance, vide order dated 28.09.2021 (Annexure P-5).

Subsequently, on the petitioner's request that he should be afforded an opportunity to make the payment by releasing him from custody, he was so released vide order dated 02.07.2022 (Annexure P-6). Even after being released, the petitioner failed to pay the maintenance amount. Instead, he filed a petition under Section 127 Cr.P.C. seeking exemption from payment of maintenance on the ground that the respondent-wife was employed and, therefore, not entitled to any maintenance. The respondent filed reply to the application. Thereupon, issues were framed by the Family Court, vide order dated 09.09.2022 (Annexure P-9), and the matter is pending adjudication.

Merely because an application under Section 127 Cr.P.C. has been filed by the petitioner/husband claiming that the respondent/wife was not entitled to any maintenance, in itself is no ground not to pay the maintenance awarded to her in terms of the order dated 05.09.2019. The issues therein are pending adjudication. Unless there is an authoritative

pronouncement by the Court on the issues raised, it cannot be held that the petitioner was not liable to pay the amount of maintenance awarded to the respondent/wife. The operation of the order dated 05.09.2019 has not been stayed by any Court of law. The facts apparent on record establish that the petitioner has deliberately not paid the amount of maintenance in terms of the order dated 05.09.2019, despite having been afforded sufficient opportunities to do so. He was even released from custody for the purpose, still, failed to pay. In this situation, the Family Court was justified in passing the impugned order dated 12.12.2022, issuing conditional warrants of arrest against the petitioner. The order does not suffer from any illegality of irregularity.

In view thereof, there is no ground to entertain the petition, and it is, accordingly, dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

February 02, 2023
Maninder

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No