

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

CRR(F)-81-2022

Date of Decision: *July 03, 2023*

Rajinder Pal

... Petitioner

Versus

Anuradha and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. R.S. Mamli, Advocate,
for the petitioner.

Vivek Puri, J.

1. The petitioner has assailed the order dated 11.01.2022 passed by the learned Family Court, Kurukshetra, vide which the application for taking legal action against the respondents for giving false information in the affidavit, was dismissed.

2. The learned counsel for the petitioner contends that the respondents have initiated the proceedings under Section 125 of the Code of Criminal Procedure (for short 'Code') for enforcement of their claim for maintenance. The respondent no.1 has submitted an affidavit in the learned Family Court to the effect that she is unemployed, doing no work and dependent upon her parents. The information submitted by her in the affidavit is wrong and an attempt has been made to misguide and get the sympathy of the Court. The respondent no.1 is working under Haryana Saksham Scheme and continuing to do the job in the Education Department. She is

drawing handsome salary which is being deposited in her account maintained in the State Bank of India. The respondent no.1 is also maintaining another account in the Punjab National Bank and reference to the said account has only been given in the affidavit. Consequently, it has been submitted that an enquiry in the matter be conducted as per the provisions of Section 340 of the Code and prosecution be initiated against the respondent no.1.

3. It is significant to note that the marriage of the petitioner was solemnized with the respondent no.1 and the respondent no.2 has been born from the wedlock. The matrimonial dispute has cropped up between the parties. The respondents have instituted a petition under Section 125 of the Code for enforcement of their claim for maintenance. It has not been disputed that the respondents have also instituted a petition for interim maintenance during the course of the said proceedings. The version of the petitioner is to the effect that the respondent no.1 is gainfully employed as a teacher in the Education Department and has submitted incorrect information in the affidavit. Moreover, she has also not disclosed the fact with regard to another bank account in the affidavit.

4. It is significant to note that it is a categorical case of the respondent no.1 that she is not gainfully employed at present. The respondents have also filed a separate revision

bearing CRR(F)-848-2022 assailing the order dated 29.03.2022 vide which interim maintenance was awarded in favour of respondent no.2 at the rate of Rs.4000/- per month. However, the interim maintenance has been declined to the respondent no.1 by observing that she is getting unemployment allowance at the rate of Rs.3000/- per month when she is without work and honorarium to the tune of Rs.6000/- per month when she gets assignment from the government through employment exchange.

5. It may be mentioned here that the interim maintenance has been declined to the respondent no.1 by the learned Family Court. It was projected before the learned Family Court that the respondent no.1 was getting unemployment allowance at the rate of Rs.3000/- per month when she was without work and honorarium @ Rs.6000/- per month when she gets job assignment from the Government through employment exchange. In such circumstances, it cannot be said that the material fact with regard to the income was concealed from the learned Family Court at the time of adjudication of the claim for interim maintenance. Moreover, merely on the score that the respondent no.1 has not disclosed the fact of any particular bank account in the affidavit may not be termed to be a circumstance to initiate criminal proceedings against her. It has also been observed in the impugned order

that even the petitioner has not disclosed with regard to the one of his bank account.

6. Furthermore, the provisions of Section 340 of the Code can be invoked in the event the Court is of the opinion that it is expedient in the interest of justice that an enquiry should be made. It is only in glaring cases of deliberate falsehood that the direction should be issued to launch the prosecution. The Court has to exercise the judicial discretion vested in it in the light of all the relevant circumstances to determine the question of expediency and order the prosecution in the larger interest of the administration of justice. The provision cannot be invoked to gratify the personal revenge or vindictiveness or vendetta of a party or to serve the ends of justice of a private party.

7. The material on record in the instant case indicates that there is a lack of prima facie case on deliberate falsehood and no reasonable and justified ground is made out to initiate the proceedings against the respondent no.1. It is neither deemed expedient nor appropriate in the interest of justice to hold any enquiry and make a complaint against the respondent no.1. It shall not be out of place to mention here that in the event any such exercise is carried out against the respondent no.1, it will further aggravate the matrimonial dispute between the parties which may not be in the interest of justice. It may be mentioned here that in the other revision

preferred by the respondents wherein the respondents have assailed the order vide which interim maintenance has been declined to the respondent no.1 and awarded on the lesser side to the respondent no.2, the matter has been referred to the mediation and conciliation centre.

8. In these set of circumstances, no illegality or irregularity is made out in the order passed by the learned Family Court, which may warrant interference by this Court.

9. The present revision petition is dismissed, accordingly.

July 03, 2023

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(Vivek Puri)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes