

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRR (F) No. 257 of 2023
Date of Decision : 1.3.2023**

Ashwin Singh

..... Petitioner

versus

Preeti Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajesh Kumar, Advocate, for the petitioner

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed for setting aside the order dated 22.11.2022, passed by the Family Court, Gurugram, whereby an application filed by the petitioner/husband for cross-examination of the respondent/wife, has been declined.

2. On 22.2.2023, notice of motion was issued to the respondents for today by way of *dasti* process only. As per office report, *dasti* notices issued to the respondents have not been received back served or otherwise.

3. Learned counsel for the petitioner is not in a position to state whether the respondents have been served by way of *dasti* process or not. He does not even know whether the *dasti* notices were submitted to the trial Court for affecting service. No report of service has been produced in Court. He has only referred to petitioner's undated affidavit, attested on 27.2.2023 at Nagpur, which states that he has served notice upon the respondents, who are petitioner's wife and five years old son, residing at Gurugram, through whatsapp on Mobile phone number 09667213548 of respondent no.1 and e-mail ID priti0709@gmail.com, preetisingh0709@gmail.com .

4. On the basis of petitioner's affidavit, it cannot be held that the

respondents have been duly served. Neither their phone number nor the e-mail IDs are part of the record, nor the petitioner ever sought permission to serve the respondents electronically through their e-mail or mobile phone numbers on whats-app.

5. Learned counsel, however, insists that the petition should be heard today as the main case is listed for tomorrow before the Family Court for final arguments, and it shall be rendered infructuous in case the petition is not decided today and/or interim order of staying further proceedings before the Family Court is not granted.

6. On his insistence, the matter is being heard today.

7. A perusal of the impugned order dated 22.11.2022 shows that the respondent/wife's evidence was closed by order of the Court and the case was adjourned to 29.11.2022 for the petitioner's evidence, whereupon the application in question for cross-examination of the respondent/wife was filed.

8. It is apparent on record that vide order dated 29.8.2019, the Family Court, in order to settle all maintenance disputes between the parties at an early date, had ordered that both the petitions shall in their evidence file only their affidavits supported with documents, if any. On that basis, the parties filed their respective affidavits and the Family Court proceeded to decide the maintenance petition filed by the respondent/wife.

9. While dismissing the application for cross-examination, the Family Court observed that in the petition under Section 125 Cr.P.C. only the reason of separation and income of the parties are to be seen which can be done on the basis of affidavits furnished by the parties. So far as other averments/allegations in the affidavits are concerned, they are not required to be looked into. On this

basis, the application was dismissed, and the matter was fixed for final arguments. The impugned order passed by the Family Court does not suffer from any illegality or error of law. Besides, the earlier order passed by the Family Court dated 29.8.2019, laying down the procedure and ordering that the maintenance petition is to be decided only on the basis of affidavits filed by the parties, has attained finality.

- 10. There is no ground to entertain the petition.
- 11. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

1.3.2023
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No