

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 113

Criminal Revision No.F-386 of 2023
Date of Decision: April 18, 2023

Manoj Kumar Sikka

..... PETITIONER(S)

VERSUS

Ramneek Sikka and another

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Ferry Sofat, Advocate for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This petition has been filed for impugning the order dated 11.01.2023 vide which the petitioner-husband's application under Section 127 Cr.P.C. has been dismissed.

2. The facts apparent on record are, the respondent-wife's interim maintenance application under Section 125 Cr.P.C. filed by her wife and minor daughter was allowed by the Magistrate, vide order dated 21.11.2015, by granting ₹ 5,000 as maintenance to her and ₹ 10,000 to her minor daughter (respondent No.2 herein). Litigation expenses of ₹ 5,000 were also granted. Against this order, the petitioner-husband filed a revision petition before the Additional Sessions Judge. During pendency of that petition, he moved an application under Section 391 Cr.P.C. seeking permission to lead additional evidence for examining the clerk of Government High School, Kasabad, to prove salary of the respondent-wife on record. It was averred that she had concealed the fact that she was teaching in a Government High School and was drawing salary of ₹ 39,396 which was subsequently enhanced to ₹ 49,606.

3. The application was allowed vide order dated 30.01.2018 (Annexure P-2) granting one effective opportunity to lead additional evidence to prove service, if any, and salary of the respondent-wife by examining the concerned clerk of the school. It has been stated that the said school clerk was examined as RW-2 proving that the respondent was working in Government Senior Secondary School, Kasabad.

4. During pendency of the aforesaid revision petition, filed against the order dated 21.11.2015 passed by the Magistrate, the petitioner filed another application under Section 127 Cr.P.C. The said application has been dismissed by the Family Court vide impugned order dated 11.01.2023

5. Learned counsel for the petitioner has contended that the application has been wrongly dismissed by the Family Court as the fact that the respondent-wife was actually working as a teacher in a government school has not been considered by the trial Court, which disentitles her from grant of maintenance. It has further been contended that the only ground of dismissal of application is non-payment of maintenance by the petitioner which is impermissible since proceedings under Section 125 Cr.P.C. and under Section 127 Cr.P.C. are on separate footing and non-payment of maintenance awarded pursuant to the order dated 21.11.2015 passed in petition under Section 125 Cr.P.C. cannot be a ground to dismiss the application under Section 127 Cr.P.C.

6. The submissions made by learned counsel has been considered.

7. It is not disputed before this Court that not a single penny has been paid by the petitioner towards maintenance to the respondents. A perusal of the impugned order shows that apart from taking into consideration non-payment of maintenance by the petitioner, it has been considered that the respondent had herself pleaded before the Court that she

and the petitioner were working as teachers in B.V.M. Senior Secondary School, Kitchlu Nagar, Ludhiana. Apparently, while awarding maintenance vide order dated 21.11.2015 the Court had taken note of the fact that the respondent was employed. It cannot be said that only on account of non-payment of maintenance, the petition has been dismissed. Nor can it be said that the respondent concealed the fact of her employment from the Court while claiming maintenance. Therefore, the petitioner’s application under Section 127 Cr.P.C. has been rightly dismissed by the impugned order. The reasons assigned by the Family Court are valid and cogent, and do not call for any interference by this Court.

7. Petition stands dismissed.

(Tribhuvan Dahiya)
Judge

April 18, 2023
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<u>Whether Speaking/ Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>