

CRR-841-2023

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

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CRR-841-2023

Date of Decision : 28.03.2023

Lt. Col.Karandeep Singh Badalia

..... Petitioner

Versus

Arshiyha Badalia and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Arshit Goel, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking quashing of order dated 03.03.2023 whereby Additional District Judge (NRI Cases,) Jalandhar, while allowing appeal by way of remand has imposed condition of payment of Rs.6 lakhs to the respondent by 03.04.2023.

The brief facts of the case are that respondent preferred a petition under Section 12 read with Section 23 of DV Act seeking maintenance. The Magistrate vide order dated 07.02.2022 granted interim maintenance to the respondents. The petitioner preferred an appeal before Sessions Court in terms of Section 29 of DV Act which came up for consideration before Additional and District Judge, Jalandhar who vide impugned order dated 03.03.2023 has set aside the order dated 07.02.2022 passed by CJM, Jalandhar and remanded the matter back to trial Court, however, imposed a condition of payment of Rs.6 lakhs by 03.04.2023.

Learned counsel for the petitioner *inter alia* contends that in terms of Section 29 of DV Act, the Appellate Court has no power to impose any condition while remanding the matter back to Magistrate, thus, Appellate Court in the present case has wrongly imposed condition of Rs. 6 lakhs to be paid to the respondent.

On being confronted with the fact that under Section 29 of DV Act, there is no bar to impose condition while remanding the matter, learned counsel prays that amount of Rs.6 lakhs imposed as pre-condition may be reduced.

Without commenting on power of the Appellate Court to impose condition while remanding the matter back to Magistrate and to avoid further delay as matter is languishing at interim stage, the amount of pre-condition as ordered by Appellate Court vide impugned order dated 03.03.2023 is reduced to Rs.3 lakhs from Rs.6 lakhs. The said amount shall be paid by petitioner by 03.05.2023 and in case the petitioner fails to pay the said amount, the present order shall be deemed to be recalled. The trial court shall pass order in terms of order dated 03.03.2023 without being influenced by observation of this Court.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

28.03.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>