

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

113

Criminal Revision (F) No.1151 of 2023

Date of decision :-09.08.2023

Charanjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Parminder Singh Kanwar, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

By filing the present criminal revision petition, the petitioner is challenging the order dated 20.7.2023 passed by the Additional Principal Judge, Family Court, Hoshiarpur, in case titled as “Harnoorpreet Singh vs. Charanjit Singh” bearing MNT No.125-439-2019, filed under Section 125 Cr.P.C. for grant of maintenance to the respondent No.2-minor son of the petitioner, whereby defence of the petitioner stands struck off.

It is submitted by learned counsel for the petitioner that the impugned order passed by the learned Court below is illegal, arbitrary and against the facts and the evidence on record and the petitioner is not liable to pay any maintenance to respondent No.2 in any manner as the mother of respondent No.2 has specifically stated in the divorce case filed between petitioner and her that she is

accepting full and final maintenance for herself as well as her minor son i.e. respondent No.2 herein.

Learned counsel for the petitioner submits that the petitioner and mother of respondent No.2 have already been granted divorce by mutual consent before the learned National Lok Adalat vide order dated 08.9.2018 (Annexure P-3) passed by the Presiding Officer, National Lok Adalat, Hoshiarpur, wherein, mother of respondent No.2/former wife of the petitioner had deposed as follows :-

“xxx xxx xxx

She further deposed that they have settled their dispute with regard to past, present and future maintenance of petitioner No.1 as well as of minor child for a sum of Rs.2,00,000/-, out of which, the petitioner No.1 has received a sum of Rs.1,00,000/- at the time of her statement of first motion and the remaining amount of Rs.1,00,000/- will be paid at the time of recording statement of second motion.

Xxx xxx xxx”

Learned counsel submits that now the petition under Section 125 Cr.P.C. has been filed by respondent No.2 minor son of the petitioner. It is submitted that the petitioner is not running away from his responsibilities. However, perusal of zimni orders reveals that on 13.7.2023, it has been recorded that the affidavits describing the financial status by both the parties were not filed and the matter was adjourned to 19.7.2023. On 19.7.2023, affidavit regarding financial status on behalf of Harnoorpreet Singh (respondent No.2 herein) through his mother Jasveer Kaur was filed and the petitioner

herein was granted last opportunity to file the said affidavit, however, alongwith costs of Rs.200/- to be paid in DLSA and the matter stood adjourned to 20.7.2023. It is submitted that on 20.7.2023, the requisite affidavit on behalf of petitioner herein could not be tendered for the reason that the petitioner was not in India on 20.7.2023, therefore, counsel for the petitioner sought an adjournment but the learned Court below vide impugned order dated 20.7.2023 struck off the defence of the petitioner herein. At the very outset, learned counsel submits that one effective opportunity may be granted to the petitioner to tender the requisite affidavit, as grave injustice will be caused to him if he is not permitted to do so.

After hearing learned counsel for the petitioner, issuance of notice of motion is dispensed with at this stage, as it will cause further delay in disposal of the case. Accordingly, keeping in view the above facts as canvassed by ld. Counsel for the petitioner, this petition is allowed and impugned order dated 20.7.2023 passed by the Additional Principal Judge, Family Court, Hoshiarpur, is set aside. The learned Court below is directed to grant one effective opportunity to enable the petitioner herein to file the requisite affidavit, however subject to payment of Rs.2000/- as costs to the petitioner-respondent No.2 herein.

Disposed of as above. Pending application, if any, also stands disposed of.

August 09, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No