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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCF No.2912 of 2023 (O&M)
Date of Decision: 16.11.2023

Seema Gyanchandani

.....Petitioner

Vs

Rahul Gyanchandani

....Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Adab Singh Kapoor, Advocate and
Mr. G.S. Sullar, Advocate
for the petitioner.

Mr. Rakesh Kumar, Advocate
Ms. Shubreet Kaur Saron, Advocate and
Mr. Samay Sandhawalia, Advocate
for the respondent.

SANJEEV PRAKASH SHARMA, J. (Oral)

[1]. This Contempt Petition has been filed by the wife for implementation of the order dated 11.07.2023 passed by the Judicial Magistrate Ist Class, Gurugram, whereby an application for interim maintenance was decided, awarding a sum of Rs.18 lakhs per month to the wife. The Contempt Petition has been filed alleging non-compliance of the said order.

[2]. It is stated that the respondent had given an undertaking to pay a sum of Rs.15 lakhs per month as interim maintenance and the trial Court vide order dated 11.07.2023 had granted the interim maintenance amounting to Rs.18 lakhs per month, therefore, arrears of amount of

Rs.2,40,50,000/- has accumulated.

[3]. This Court had issued notice of motion by summoning the respondent throughailable warrants. Thereafter, it appears that the reply had been filed and objection has been raised by learned counsel for the respondent regarding maintainability of this Contempt Petition.

[4]. It is submitted that the Contempt Petition would not lie directly in this Court with regard to the implementation of order of the Magistrate granting interim maintenance. More so as the petitioner has already moved an execution application before the concerned Court. It is also submitted that the appeal against the order of interim maintenance has been filed by both the parties and the same dispute is to come up before the Appellate Court.

[5]. Learned counsel for the respondent has asserted that since February, 2023 the respondent-husband has been paying a sum of Rs.15 lakhs per month to the wife and the son. The respondent has also paid the rent, maintenance amount and other expenses from October, 2022 to January, 2023. The rent amount of Rs.5,50,000/- and other maintenance amount as mentioned in the reply are also being paid.

[6]. I have considered the submissions made by learned counsel for the parties.

[7]. This Court finds that the provisions of the Contempt of Courts Act, 1971 are being misused by litigants, who file petitions for contempt of Courts directly to this Court with regard to implementation of orders passed by the Judicial Magistrates which are executable in term of the Order 21

CPC as decrees of the Court or other were under the voluntary rounds. The judgment cited by learned counsel for the petitioner also notes that such orders passed of relating to maintenance are akin to the decrees of the Court and can be taken up for execution in terms of provisions of the CPC. The contempt proceedings are special proceedings which can be taken up by the High Court where contempt is alleged of violation of this Court's order which is a Court of record or if the concerned subordinate Court gives a finding that its orders are being flouted and refers the matter under Section 10 of the Contempt of Courts Act to the High Court for punishing the contemnors for having violated the orders.

[8]. Therefore, where an order passed by the trial Courts or by the Civil Courts is alleged to have been violated, contempt petition directly to this Court would not be maintainable. The Court of first instance, therefore, has to first reach to a satisfaction that its orders are being deliberately and wilfully flouted, for which provisions are always available under the concerned statute to approach the concerned Court itself. Filing of direct contempt petitions to this Court would serve no purpose as it is not possible for this Court to examine the facts of each case and the manner in which the concerned trial Court has passed an order and whether the exact amount is due or not as against the concerned respondent. Thus, this Court is satisfied, that this contempt petition is not maintainable. In the present case, that the respondent has abided by its undertaking and has been paying an amount of Rs.15 lakhs, however, since the concerned Judicial Magistrate has passed an order enhancing the maintenance amount to Rs.18 lakhs per month, the

execution proceedings can be examined by the concerned Judicial Magistrate for the said purpose. This contempt petition would not lie before this Court and the remedy lies elsewhere.

[9]. In view of the aforesaid, this Contempt Petition stands dismissed. Notice stands discharged. However, dismissal of this contempt petition will not take away the right of petitioner to get the order implemented from competent Court.

[10]. All pending applications filed in this Contempt Petition shall stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

November 16, 2023
Atik

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