

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

**CRM-M No.56529 of 2022 (O&M)
DATE OF DECISION : 16.08.2023**

Manpreet Singh

.....Petitioner

versus

Ramandeep Kaur

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ishan Gupta, Advocate for the petitioner

Ms. Poonam Verma, Advocate for the respondent

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ALKA SARIN, J. (Oral):

CRM-32985-2023

1. This is an application moved by the applicant-petitioner for staying the operation of the impugned order dated 03.10.2022.
2. Notice in the application.
3. Ms. Poonam Verma, Advocate accepts notice on behalf of the non-applicant/respondent.
4. Learned counsel for the parties are *ad idem* that instead of deciding the present application, the main case itself may be heard today.
5. With the consent of both the counsel, the main case is taken on Board today itself. CRM disposed off.

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6. This is a petition under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) for setting aside/quashing the impugned order dated 03.10.2022 (Annexure P-9) passed by the Additional Sessions Judge, Sangrur in the revision petition filed by the respondent herein challenging the order of the Family Court on her application for grant of interim maintenance.

7. The reply filed by the learned counsel for the respondent in Court today is taken on record subject to all just exceptions.

8. The brief facts relevant to the present case are that the respondent herein filed an application under Section 125 CrPC for directing the petitioner herein to pay interim maintenance at the rate of Rs.30,000/- per month from the date of the application along with Rs.11,000/- as litigation expenses. Vide order dated 27.02.2020 the Family Court held that the applicant i.e. the respondent herein could not be held entitled to interim maintenance at that stage. It was further noticed in the order that any opinion expressed therein would not have a binding effect on the grant of maintenance at the time of conclusion of the trial. Further, issues were also framed vide the said order. Aggrieved by the said order, a revision petition was preferred by the respondent herein. Vide the impugned order dated 03.10.2022 it was held as under :

“Therefore, it is clear that in the present case applicant is certainly entitled to maintenance but ld. Trial Court shall first get the affidavits of both the parties as submitted above and after considering the same together

with the pleadings shall affix the interim maintenance during the pendency of this petition. With these observation (sic) the order of ld. Trial Court dated 27.02.2020 is set aside with the direction that ld. Trial Court shall pass fresh order qua maintenance as per law after getting the requisite affidavits of both the parties. Accordingly, present revision petition is accepted. File be consigned to record room. File of Ld. Trial Court is returned at once to be presented before Ld. Trial Court on 17.10.2022 for taking up further proceedings. Both the parties are directed to appear before ld. Trial Court on that day.”

9. Learned counsel for the petitioner contends that vide the impugned order not only the application for grant of interim maintenance has been allowed but even the main case for grant of maintenance under Section 125 CrPC stands virtually allowed without there even being any trial. The learned counsel would further contend that the revisional Court while allowing the revision petition vide the impugned order dated 03.10.2022 has not only remanded the case but at the same time has also given a categorical finding holding the respondent entitled to maintenance. The learned counsel has further contended that the only prayer of the petitioner herein is that since the matter has been remanded it should be decided on merits without being influenced by any opinion expressed in the impugned order dated 03.10.2022.

10. On the other hand, learned counsel appearing on behalf of the respondent herein has pointed out that the revisional Court while remanding the matter has categorically stated that the order for grant of maintenance has to be passed afresh in accordance with law.

11. Heard.

12. The limited prayer of the petitioner herein is that the Family Court while deciding the application for interim maintenance should do so in accordance with law and without being influenced by the observations made by the revisional Court in the impugned order dated 03.10.2022.

13. In view of the above and in view of the limited prayer made by the learned counsel for the petitioner herein, the present petition is allowed and it is made clear that any observation made in the impugned order dated 03.10.2022 shall not be treated as an expression of opinion on the merits of the case and the Family Court shall decide the application for interim maintenance in accordance with law.

14. The petition is accordingly disposed off. Pending applications, if any, also stand disposed off.

16.08.2023
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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