

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

130

CRM-M-59694-2022

Date of Decision : 20.03.2023

Prashant Dubey

..... Petitioner

Versus

Nisha Dubey and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Gaurav Tyagi, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 482 Cr.P.C. is seeking setting aside of order dated 07.11.2022 whereby the Principal Judge, Family Court, Gurugram in execution application filed under Section 128 Cr.P.C. by the respondents has issued conditional warrants of arrest against the petitioner.

Learned counsel for the petitioner *inter alia* contends that the petitioner in view of changed facts and circumstances has filed an application under Section 127 Cr.P.C. seeking modification of order of maintenance. The respondents has filed a petition under Section 128 seeking execution of the order granting maintenance. The Family Court at the first instance, should decide the application of the petitioner under Section 127 Cr.P.C, and thereafter proceed with execution application. The execution application as well as application under Section 127 Cr.P.C. of the petitioner is coming up for consideration before the Family Court on 15.04.2022.

I have heard the arguments of learned counsel for the petitioner and perused the record.

Without commenting on the merits of the case, the present petition is disposed of with a request to Family Court to adjudicate the application of the petitioner under Section 127 Cr.P.C. and if it comes to a conclusion that the application is not maintainable or order under Section 125 Cr.P.C. does not warrant interference, proceed with application under Section 128 Cr.P.C.

(JAGMOHAN BANSAL)
JUDGE

20.03.2023
anju

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