

CRR (F) No.1765 of 2023

Neutral Citation No.2023:PHHC:163692

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

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**CRR (F) No.1765 of 2023
Date of Decision: 19.12.2023**

Baljidner Singh

... Petitioner

Versus

Gurjit Kaur and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rahul Vijay Singh Chugh, Advocate,
for the petitioner.

MANISHA BATRA, J.

1. The present revision petition has been filed by the petitioner impugning the order dated 10.10.2023 passed by learned Principal Judge, Family Court, Mansa in case bearing No.CRM/553/2022, whereby conditional warrants of arrest were ordered to be issued against him.

2. Brief facts of the case relevant for the disposal of this petition are that the respondents had filed a petition bearing No. MNT/112/2018 titled as *Gurjit Kaur and others vs. Baljinder Singh* under Section 125 of Cr.P.C. against the present petitioner on the grounds that respondent No.1 was married with the petitioner on 27.01.2002. Two children i.e. respondents No. 2 and 3, were born out of the wedlock. The petitioner had fallen in bad company. He was a greedy person. The respondent No. 1 was subjected to harassment and cruelty by him on account of bringing insufficient dowry at the time of marriage and on account of demand of dowry raised by them, ultimately, she was turned

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out of her matrimonial house alongwith minor respondents. While alleging that the petitioner was running a shop of selling mobile phones and owned other properties and was earning a sum of Rs.2,00,000/- from all sources, the respondents had prayed for directing him to make a payment of maintenance amount.

3. Vide order dated 19.03.2019, learned Judicial Magistrate 1st Class, Mansa directed the petitioner to pay interim maintenance to the tune of Rs.5,000/- per month to respondent No.1 and Rs.15,00/- per month each to respondents No. 2 and 3. The respondents filed petition for execution of the order dated 19.03.2019, since the petitioner had not paid the arrears of maintenance from 31.07.2018 to 31.10.2019. During the pendency of petition bearing No. CRM/193/2021, another execution petition bearing No. CRM/553/2022 had been filed by the respondents seeking recovery of maintenance for the period from 01.11.2019 to 30.11.2022 from the present petitioner. In the meanwhile, the learned Principal Judge, Family Court Mansa to whom the petition had been transferred finally decided the maintenance petition vide order dated 04.01.2023 thereby dismissing the petition qua petitioner No.2, who had attained majority and by partly allowing the petition thereby directing the present petitioner to pay a sum of Rs.10,000/- per month to present respondent No.1 and Rs.5,000/- per month to the present respondent No.2. The present respondent No.3 was held entitled to receive the amount of maintenance only till the time she attained the age of majority.

4. It is submitted by the petitioner that on receiving notices of execution applications bearing No.CRM/193/2021 and CRM/553/2022, he had filed replies taking objections as to maintainability thereof on the

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ground that the main petition stood decided and the order dated 19.03.2019, had been merged in the final order passed in the maintenance petition and hence, the above mentioned execution petitions were not maintainable. However, despite the objections so taken in the replies filed by him, the learned Principal Judge, Family Court passed order dated 10.10.2023 in CRM No. 553/2022, thereby issuing conditional warrant of arrest against the present petitioner whereas in an order passed on same day in CRM No. 193/2021, his property was ordered to be put to sale.

5. Feeling aggrieved from the order dated 10.10.2023 passed by learned Principal Judge, Family Court, Mansa in CRM No.553/2022, whereby conditional warrants of arrest issued against him, the petitioner has filed this petition. It is argued that once the final order dated 04.01.2023 was passed in the main petition filed under Section 125 of Cr.P.C. by the respondents, then the interim orders passed in the same petition automatically merged with the final order and the same had become unexecutable. It is further argued that the impugned order, therefore, is not sustainable in the eyes of law. Hence, it is urged that petition deserves to be allowed, impugned order is liable to be set aside and the conditional warrants as issued against him are liable to be recalled. To fortify his argument, learned counsel for the petitioner has placed reliance upon a judgment of this Court passed in **Puneet Chopra v. Urvashi and another**, 2016(2) RCR (Criminal) 768.

6. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.

7. On giving due deliberations to the contentions as raised by learned counsel for the petitioner and on going through the record, I am of

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the considered opinion that the impugned order does not warrant any interference. There can be no dispute regarding the legal proposition that an order granting interim maintenance merges into final order of maintenance and the interim orders cease to exist. The principle of merger of interim order into final order would, however, mean that interim relief granted to a party will cease to exist on the day when the final order is passed and from that date onwards, the rights conferred upon a party would be enforceable as per the final order. By that, no inference can, however, be drawn that interim order would be nullified on passing of the final order. Even in **Puneet Chopra's** case (Supra) which has been relied upon by the petitioner himself, same proposition of law was laid down.

8. In the instant case, by virtue of the final order dated 04.01.2023 passed by the Family Court in the main petition, the present petitioner was directed to pay a sum of Rs.10,000/- per month to present respondent No.1 and Rs.5000/- per month to present respondent No.2 till she attained the age of majority and thus payment was ordered to be made from the date of filing of the main petition. Prior to passing of this order, interim maintenance to the tune of Rs.5000/- per month to respondent No.1 and Rs.15,00/- per month each to the respondents No.2 and 3 was directed to be granted and paid by the present petitioner. It is apparent that the respondent had filed applications seeking execution of interim order for calling upon the present petitioner to make payment of arrears of maintenance from the date of filing of the application for grant of interim maintenance till the date of passing of the order in the main petition and only because in the main order, some other amount of maintenance has been ordered to be given, which would not mean that the interim relief granted to the respondents would cease to exist or

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become null and void. In **Puneet Chopra's** case (Supra) it was observed that words "cease to exist" will not be meant to nullify the interim relief granted to the respondents by interim order.

8. In view of this discussion, the present petition is dismissed.

19.12.2023
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(MANISHA BATRA)
JUDGE

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