

Neutral Citation No.2024:PHHC:001461

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.642 of 2024
Date of decision: 08.01.2024

Ranjit Singh ... Petitioner
Vs.
Kanwaljit Kaur ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. L.M. Gulati, Advocate,
for the petitioner.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner under Section 482 of Cr.P.C. seeking quashing of order dated 27.07.2023 as passed by the Court of learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar in a petition No.COMA/40/2018 titled as *Kanwaljit Kaur v. Ranjit Singh and others* filed under the provision of the Protection of Women from Domestic Violence Act, 2005 (For short “Act, 2005”) by the present respondent.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner got married with the respondent on 13.09.2009. A male child was born to them. The respondent had left her matrimonial house in the year 2017 and in November 2018, she filed the aforementioned petition levelling various allegations against the present petitioner and seeking maintenance to the tune of Rs.50,000/- per month by claiming that she had no source of income and was not capable of

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maintaining herself. The Court of learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib after giving opportunity of filing reply to the parties and adducing evidence, had decided the petition vide the impugned order thereby directing the present petitioner to pay an amount of Rs.5,000/- per month by way of maintenance from the date of filing of the petition.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law due to the reason that the petitioner had never refused to rehabilitate the respondent with her and it was the respondent who herself was living separately from him due to her own will. She was of quarrelsome nature and had refused to join the company of the petitioner. With these broad submissions, it is argued that the petition deserves to be allowed.

4. I have heard learned counsel for the petitioner at considerable length and have perused the material placed on record.

5. At the outset, I consider it relevant to point out that the petitioner has preferred to challenge the impugned order passed under the provisions of Act, 2005 by filing this petition under Section 482 of Cr.P.C. No doubt, the High Court has wide and inherent powers under Section 482 of Cr.P.C. However, proper remedy for the petitioner was by way of filing an appeal under Section 29 of the Act, 2005 against the impugned order before the learned Lower Appellate Court which for the reasons best known to him, he has not chosen to avail. That apart, the

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impugned order reflects that neither he had filed any reply to the petition of the respondent as filed under the Act, 2005 nor any evidence whatsoever had been led by him. Even his defence is shown to have been struck off vide order dated 07.01.2020. It appears that the approach of the petitioner remained very casual before the learned trial Court. The contention that he was ready to rehabilitate the respondent but the learned trial Court did not take this fact into consideration appears to be without any basis, when he has not been able to bring any material on record to show that he had led any evidence before the trial Court to show so or that any efforts had been made by him at any stage to rehabilitate the respondent and his child with him. By saying that he is a jobless person, he cannot be absolved of his responsibility to make payment of maintenance. Learned counsel for the petitioner has failed to raise any point justifying that the impugned order has not been validly passed and is not sustainable in the eyes of law. As such, finding that despite having remedy of filing an appeal being available with him, the petitioner has chosen to file this petition under Section 482 of Cr.P.C. and even otherwise on merits, no case is made out in his favour, I dismiss this petition.

08.01.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No