

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-10983-2024(O&M)
Date of order: 05.03.2024

Abhishek Somani

.....Petitioner(s)

Vs.

Shivangi Maheshwari

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Subhash Aggarwal, Advocate
for the petitioner.

Nidhi Gupta, J.

Prayer in the present petition filed under Section 407 read with Section 482 Cr.P.C. is for transfer of case No.225 of 2022 filed by the respondent/wife under Section 125 Cr.P.C. seeking interim maintenance pending before the Family Court, District Judge, Bhiwani to Family Court, District Judge, Gurgaon or any other Court of competent jurisdiction.

2. The only contention made by learned counsel for the petitioner for seeking transfer of the above said petition is that the learned Family Court at Bhiwani is 'not hearing' the petitioner. Learned counsel refers to order dated 16.12.2023 passed by learned Family Court, Bhiwani whereby the respondent/wife's application for grant of interim maintenance was allowed and the petitioner was directed to pay Rs.1 lakh per month to the respondent/wife as interim maintenance. Learned counsel submits that the said order has been passed in the absence of learned counsel for the petitioner before the Family Court.

3. When it is pointed out to learned counsel for the petitioner that presence of Ms. Manju Sharma, Advocate is marked on behalf of the petitioner, learned counsel submits that in actual fact learned counsel for the petitioner had not appeared, yet, her presence has been marked. Learned counsel refers to “undertaking” dated 25.12.2023 (Annexure P3) submitted by the said Advocate Ms. Manju Sharma, wherein she has stated that in view of a circular issued by the District Bar Association, Bhiwani dated 28.09.2023, she was obliged not to appear as work was suspended for 16.12.2023. In this regard, learned counsel also makes reference to the resolution of the District Bar Association, Bhiwani (Annexure P4), whereby the Bar Association, Bhiwani had resolved to suspend work on every Saturday.

4. No other argument is raised on behalf of the petitioner.

5. This Court finds the sole submission made on behalf of the petitioner to the effect that the Family Court, Bhiwani is ‘not hearing’ the petitioner, to be most reprehensible. Such arguments are resorted to only when there is no merit in the petition.

6. Perusal of order dated 16.12.2023 (Annexure P1) shows that on the said date that is 16.12.2023, presence of not just counsel for the petitioner but presence of even counsel for the wife is marked. In fact, perusal of Annexure P1 (at page 13 of the paper book) shows that contentions on part of learned counsel for the petitioner have been duly noted by the learned Family Court to the effect that although there had been no denial of the fact that the petitioner was drawing a salary of

Rs.5.75 lakh per month as reflected in the salary slip of the petitioner placed on record by the respondent/wife, yet learned counsel for the petitioner had only submitted that the respondent was running several companies, however, had failed to place on record even a single document from which the amount being earned by the respondent could be ascertained. It is in this background that the learned Family Court had allowed the interim maintenance of Rs.1 lakh per month to the respondent/wife.

7. In view of the above, I find no ground is made out to transfer case No.225 of 2022 under Section 125 Cr.P.C. seeking interim maintenance filed by the respondent/wife in the Family Court, District Judge, Bhiwani to the Family Court, District Judge, Gurgaon or any other Court of competent jurisdiction. **Dismissed.**

8. Pending application(s) if any also stand(s) disposed of.

05.03.2024		(Nidhi Gupta)
Sunena		Judge
Whether speaking/reasoned	Yes/No	
Whether reportable	Yes/No	