

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

CRR(F)-314-2024 (O&M)

Date of Decision: 26.04.2024

DALJIT SINGH

.....PETITIONER

Vs.

INDERJIT KAUR AND OTHERS

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Munish Garg, Advocate,
for the petitioner.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present Criminal Revision Petition has been filed for quashing the order dated 21.12.2023, passed by the learned Principal Judge, Family Court, Barnala, whereby maintenance of ₹10,000/- per month was granted to the respondent-wife in a petition under Section 125 Cr.P.C.

2. Learned counsel for the petitioner *inter alia* submits that the learned Family Court while passing the impugned order, dated 21.12.2023, has not properly considered and appreciated the evidence led by the petitioner. It is an admitted fact that respondent No. 1-wife is running a Beauty Parlour and the certificate of her qualification has also been placed on record before the learned Family Court. It is also admitted that she is living in a house which is owned by the petitioner-husband and therefore, she is capable of maintaining herself.

2.1 It is further contended that due to Covid-19 pandemic the business of the respondent suffered and he was not able to earn any money and for that reason he has now settled in USA. It is also contended that

respondent No. 1-wife is having illicit relations with one Harpreet Singh and left her matrimonial home as per her own will, as such, she is not eligible for any interim maintenance.

2.2 It is further contended that the respondent wife has also filed a civil suit for grant of maintenance and in the proceeding under Order XXXIII Rule 1 and 2 CPC, the residential house belonging to the petitioner and other family members has been attached and she procured the said order before leaving for Canada as presently she is living in Canada and even the petitioner has shifted to USA.

3. I have considered the aforesaid contentions.

4. The impugned order was passed in a petition filed under Section 125 Cr.P.C. by the Family Court which was instituted on 11.01.2021 and was decided on 21.12.2023. As per the pleadings of the husband recorded by the Family Court in the impugned order, there is no such plea taken that the petitioner or the respondent has shifted abroad. The subsequent events have not been brought into the notice of the Family Court. As such, there is no evidence to this effect which has not been discussed by the Family Court. As such, the revision petition is not maintainable, only on the ground of some subsequent events which are not pleaded by the parties. However, the petitioner has a legal remedy under Section 127 Cr.P.C. to approach the concerned Court for modification of the order which reads as under:-

“127. Alteration in allowance.

- [(1) On proof of a change in the circumstances of any person, receiving under section 125 a monthly allowance, for the maintenance or interim maintenance, or ordered under the same section to pay a

monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.] [[Substituted by Act 50 of 2001, Section 3, for sub-Section (1) (w.e.f. 24-9-2001). Prior to its substitution, sub-Section (1) read as under :- [(1) On proof of a change in the circumstances of any person, receiving, under Section 125 a monthly allowance, or ordered under the same Section to pay a monthly allowance to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration in the allowance as he thinks fit :

Provided that if he increases the allowance, the monthly rate of five hundred rupees in the whole shall not be exceeded.]]

(2) Where it appears to the Magistrate that in consequence of any decision of a competent Civil Court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 125 in favour of a woman who has been divorced by, or has obtained a divorce from her husband, the Magistrate shall, if he is satisfied that -

(a) the woman has, after the date of such divorce, re-married, cancel such order as from the date of her re-marriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order -
(i) in the case where such sum was paid before such order,

from the date on which such order was made;(ii)in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c)the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to [maintenance or interim maintenance as the case may be,] [Substituted by Act 50 of 2001, Section 3 (w.e.f.24-9-2001).] after her divorce, cancel the order from the date thereof.

(4)At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a [monthly allowance for the maintenance and interim maintenance or any of them has been ordered] [Substituted by Act 50 of 2001, Section 3 (w.e.f. 24-9-2001).] to be paid under Section 125, the Civil Court shall take into account the sum which has been paid to, or recovered by such person [as monthly allowance for the maintenance and interim maintenance or any of them, as the case may be, in pursuance of] [Substituted by Act 50 of 2001, Section 3 (w.e.f. 24-9-2001) the said order.

5. In view of the above, the present petition is not maintainable, as such the same stands dismissed. However, the petitioner is at liberty to approach the concerned Court under Section 127 Cr.P.C., as per law.
6. Pending miscellaneous application (s), if any, shall also stand disposed of.

April 26, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking Yes/No
Whether reportable Yes/No