

117

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16242-2024 (O&M)
Date of decision: 04.04.2024

Naresh

... Petitioner

Vs.

Sunita

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kunal Choksi, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for quashing of the order dated 17.02.2023 passed by the learned Judicial Magistrate 1st Class, Chandigarh, whereby 1/3rd salary of the petitioner has been attached and the maintenance amount has been increased from Rs.10,000/- per month to Rs.12,803/- per month.
2. Learned counsel for the petitioner, *inter alia*, contends that the learned Court below has no power under Section 128 Cr.P.C. for enhancing the maintenance amount, which has already been determined under the provisions of Section 125 Cr.P.C. However, perusal of the record indicates that no such enhancement has been made by the learned Court below. It is

further contended that 1/3rd of the net payable salary comes out to Rs.12,803/- and the petitioner is liable to pay the maintenance only to the extent of Rs.10,000/- per month.

3. In view of the above, learned counsel for the petitioner submits that this petition may be disposed of and seeks liberty to approach the learned Court below for clarification of the order dated 17.02.2023.

4. In case any such application is filed, learned Judicial Magistrate 1st Class, Chandigarh shall decide it accordingly, so that the petitioner can be held liable only to pay Rs.10,000/- per month, for which he has been made liable under Section 125 Cr.P.C.

5. Disposed of accordingly.

04.04.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No