



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

CRM-M-26751-2017 (O & M)

Date of decision: 23.08.2024

VIPIN

...PETITIONER

V/S

PREETI AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vicky Sharma, Advocate for
Mr. K.S. Dhaliwal, Advocate
for the petitioner.

Mr. Vivek Goyal, Advocate for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed under Section 482 Cr.P.C. for quashing of judgment and order dated 07.06.2016 passed by learned Judicial Magistrate Ist Class, Kurukshetra, whereby petition filed under Section 125 Cr.P.C. filed by the respondents has been allowed and respondent No.1 has been awarded maintenance allowance of Rs.5,000/- per month and respondent No.2 has been awarded Rs.2000/- per month and order dated 20.04.2017 passed by learned Additional Sessions Judge, Kurukshetra, whereby revision petition filed by the petitioner stands dismissed.

2. Brief facts of the case are that the marriage of the petitioner and the respondent No.1 was solemnized on 09.11.2008 in accordance with Hindu rites and ceremonies. Out of this wedlock, one female child was born. However, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance. The petitioner filed a reply and contested the claim made by the respondents. The learned



Judicial Magistrate Ist Class, Kurukshetra vide order dated 07.06.2016 granted maintenance allowance of Rs.7,000/- per month in favour of the respondents. Aggrieved by the same, the petitioner approached the lower Appellate Court, whereby vide order dated 20.04.2017, the lower Appellate Court dismissed the revision petition filed by the petitioner. Thereafter, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is mainly aggrieved against the impugned order dated 07.06.2016 as the maintenance awarded under the provisions of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the 'Act') to respondents has not been adjusted in view of the ratio of law laid down in '**Rajnish v. Neha and another**' (2021) 2 SCC 324. The Apex Court has categorically held that any maintenance amount being paid in collateral proceedings is required to be set off while ascertaining the amount of maintenance in subsequent proceedings.

4. Learned counsel for the respondents submits that respondent No.1 has no independent source of income to maintain herself and the minor child, who is studying in a reputed school at Kurukshetra.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, the present petition is taken up for final disposal.

6. In view of the facts and circumstances of the present case, the impugned order dated 07.06.2016 is hereby set aside and the matter is remanded back to the learned Judicial Magistrate Ist Class, Kurukshetra and the Court below is directed to pass a fresh order on the application for maintenance filed by the respondents by adjusting the amount of maintenance,



the respondents are getting in the collateral proceedings, as directed above.

6. However, the adjustment/set-off shall be subject to clearing all the pending arrears payable till date, after adjustment under the D.V. Act within four weeks by the petitioner, failing which, the impugned order dated 07.06.2016 shall enure.

7. The present petition stands disposed of accordingly.

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

August 23, 2024
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(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |