



**222-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-24017-2023
Reserved on: 01.10.2024
Pronounced on: 04.10.2024

SonuPetitioner

Versus

Mausam and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Neeraj Sheoran, Advocate
for Mr. Gagandeep Sanwal, Advocate
for the petitioner.

Mr. Ravinder Malik, Advocate
for the respondents.

HARPREET SINGH BRAR, J.

1. The present revision petition has been preferred against the impugned order dated 15.03.2023(Annexure P-1) vide which half of the salary of the petitioner was ordered to be attached as well as order dated 19.04.2023(Annexure P-2) whereby the application of the petitioner for detachment of salary was rejected and both orders were passed by the learned Additional Principal District Judge, Family Court, Kharkhoda, Sonipat.

2. Briefly, the facts are that the marriage between the petitioner and respondent No.1 was solemnised on 25.11.2016 and out of this wedlock, one son i.e. respondent No.2 was born. However, matrimonial discord ensued and the respondents moved an application seeking maintenance under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.'). Learned Family Court granted a sum of Rs. 10,000/- per month to respondent No.1-wife and Rs. 5,000/- to respondent No. 2 vide judgment dated 14.12.2022(Annexure



P-3). The respondents filed an execution petition before the learned Family Court and vide order dated 15.03.2023 (Annexure P-1), half of the salary of the petitioner, for each month since April, 2023, was ordered to be attached. Subsequently, the petitioner moved an application for detachment of salary, however, the same was dismissed vide order dated 19.04.2023 (Annexure P-2).

3. Learned counsel for the petitioner-husband, *inter alia*, contended that the learned Family Court has erred in attaching the salary of the petitioner in the execution proceedings initiated against him. The petitioner is in arrears of Rs. 6,00,000/- towards maintenance. He offered to make a part payment of Rs. 2,00,000/- to respondent No.1 on 15.03.2023, which she refused to accept. Respondent No.2 is adamant about only accepting the full payment of Rs. 6,00,000/-, but the petitioner is not in a position to clear the arrears at once. The petitioner is the sole bread winner of the family and looks after his ailing parents as well as is burdened with the liability to pay the installments for the loan availed by him.

4. *Per contra* learned counsel for the respondents submitted that learned Court below has correctly attached half the salary of the petitioner as he is intentionally evading his responsibility to maintain the respondents.

5. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that the learned Family Court ordered the attachment of half of the monthly salary of the petitioner, from April 2023 onwards. The Hon'ble Supreme Court in ***Rajnish vs. Neha and another 2021(2) SCC 324***, speaking through Justice Indu Malhotra, made the following observations:

“(e) Enforcement/Execution of orders of maintenance



136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and section 128 of Cr.P.C., 1973 as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 r.w. Order 21

Clearly thus, the learned Court below could have ordered attachment of salary by resorting to Section 60 for the purposes of the recovery of the amount of maintenance which has fallen in arrears.

6. At this juncture and for proper adjudication of the present case, it is pertinent to refer to the relevant provisions under Section 60, C.P.C., which is extracted below:

Section 60: Property liable to attachment and sale in execution of decree.

(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely:

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;



(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist or a labourer of a domestic servant and occupied by him ;

(d) books of account ;

(e) a mere right to sue for damages ;

(f) any right of personal service ;

(g) stipends and gratuities allowed to pensioners of the Government or of a local authority or of any other employer, or payable out of any service family pension fund notified in the Official Gazette by the Central Government or the State Government in this behalf, and political pensions;

(h) the wages of labourers and domestic servants, whether payable in money or in kind;

(i) salary to the extent of the first one thousand rupees and two third of the remainder in execution of any decree other than a decree for maintenance:

Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty-four months, be finally exempt from attachment in execution of that decree.

(ia) one-third of the salary in execution of any decree for maintenance ;

7. A perusal of the above mentioned provision clearly elucidates that certain properties are liable to attachment and sale in execution of a decree, including the salary of the judgment-debtor. However, a proviso has been added by the legislature whereby certain properties have not been held to be liable to such attachment or sale, including one-third of the salary in execution of any decree for maintenance. In other words, the entire salary of the judgment-debtor barring one-third amount can be attached for the purpose of the recovery of the amount of maintenance which has fallen in arrears. This provision is further



bolstered by this Court’s Rules and Orders, more specifically Chapter 12, Part H of Volume I as per which, in execution of decrees for maintenance, only one third of the salary would be exempted from attachment irrespective of the amount of the salary.

8. Further, a perusal of the order dated 19.04.2023 indicates that a huge amount has been deposited in and withdrawn from the bank account of the petitioner since attachment of half of his salary vide order dated 15.03.2023. However, no payment has been made to the respondents towards the arrears, which brings this Court to the conclusion that the learned Family Court has correctly dismissed the application of the petitioner to detach his salary as his conduct indicates wilful disobedience. As such, the leaned counsel for the petitioner has been unable to indicate any perversity in the impugned order that warrants interference by this Court.

9. Accordingly, the present petition is dismissed being bereft of any merits. Pending miscellaneous application(s) if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

04.10.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No