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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 30.07.2024

1. CRM-M-36020-2024 (O&M)

Prabhjeet Singh

...Petitioner

Versus

Gurpreet Kaur and another

...Respondents

2. CRM-M-35836-2024 (O&M)

Prabhjeet Singh

...Petitioner

Versus

Gurpreet Kaur and another

...Respondents

3. CRM-M-36028-2024 (O&M)

Prabhjeet Singh

...Petitioner

Versus

Gurpreet Kaur and another

...Respondents

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CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sunny K. Singla, Advocate for
for the petitioner (in all the petitions).

HARPREET SINGH BRAR, J.

1. This common judgment shall dispose of all three aforementioned petitions as they arise from similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-36020-2024.
2. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking setting aside of the impugned order dated 10.05.2024 (Annexure P-3) passed by learned Additional Principal Judge, Family Court, Camp Court at Khanna, whereby fresh conditional warrants of arrest were issued against the petitioner and his property was directed to be attached, in an application under Section 125(3) Cr.P.C.
3. Briefly, the facts are that the marriage between the petitioner and respondent No.1 was solemnized on 13.11.2015 and from the said wedlock, respondent No.2 was born. Soon thereafter, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance. Resultantly, vide order dated 13.10.2023 (Annexure P-1) passed by learned Family Court, the petitioner was directed to pay Rs.10,000/- per month to respondent No.2 as interim maintenance, while it was concluded that respondent No.2 is capable of maintaining herself. Aggrieved by the same, the petitioner

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filed a revision petition before this Court, which was dismissed vide order dated 15.01.2024 (Annexure P-2).

4. Learned counsel for the petitioner, *inter alia*, contends that the respondents have moved three different applications under Section 125(3) Cr.P.C. for recovery of interim maintenance for Rs.1,20,000/-, Rs.1,20,000/- and Rs.1,10,000/- respectively, totalling to Rs.3,50,000/- before learned Family Court. Consequently, conditional warrants of arrest were issued against the petitioner-judgment debtor, which was received back unserved. While passing the impugned order dated 10.05.2024, learned Family Court Court fell into grave error by not just issuing fresh conditional warrants, but also ordered to attach his property. The petitioner is ready and willing to clear the arrears of maintenance and merely seeks some time to do the needful. In fact, he is willing to pay Rs.1,00,000/- to show his *bona fide*.

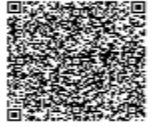
5. Having heard learned counsel for the petitioner and after carefully perusing the record of the case with his able assistance, it transpires that the petitioner owes Rs.3,50,000/- in arrears to respondent No.2. The respondents have filed three separate applications under Section 125(3) Cr.P.C. for recovery of Rs.1,20,000/-, Rs.1,20,000/- and Rs.1,10,000/- respectively.

6. Section 125(3) of the Cr.P.C. reads as follows.

Section 125. Orders for maintenance of wives, children and parents.

(3) If any person so ordered fails without sufficient cause to comply

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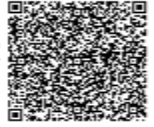


with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each months allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made.

7. A close scrutiny of the aforementioned Section reveals that in case of breach of the order directing payment of maintenance, the Magistrate may issue warrant for levying the amount due in the manner provided for levying fines as prescribed under Section 421 of Cr.P.C. and the Magistrate may also sentence such person for the whole or any part of each month allowance. Both of these are methods to impel the person against whom execution proceedings have been initiated to pay the maintenance amount which has fallen in arrears. However, the employment of these modes of enforcing recovery is not to be confused with the actual realisation of the maintenance amount due or as a satisfactory substitute for the latter.

8. The ambit and scope of the powers as devolved by Section 125(3), are not to penalize or punish the transgressing party, who hasn't complied with the order, but rather, to drive him to a situation where he is put under an

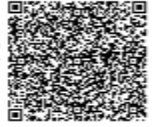
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obligation to pay the monthly allowance and makes the actual payment of arrears. The intent of the legislature in this regard is further made explicit by the provision which allows for sentencing the person, who fails without sufficient cause to comply with the order without sufficient cause, for the whole or any part of each month's allowance for the maintenance, including interim maintenance remaining unpaid. The sentence may extend to imprisonment for a term up to one month or until payment is made, if sooner. The provisions under Chapter IX of Cr.P.C. are in the nature of a beneficent legislation. The purpose and object is to provide a simple and speedy remedy, and to ensure that the deserted wife, children and parents are not left without any means for subsistence. Reliance in this regard can be placed upon the judgment rendered by the Hon'ble Supreme Court in *Smt. Kuldip Kaur Vs. Surinder Singh and anr., (1989) 1 SCC 405*, the Rajasthan High Court in *In Re A Ref. Under Section 395 Cr.P.C., 1973 By District and Sessions Judge, Pali Vs. Unknown, 2022 (1) R.C.R. (Criminal) 435* and this Court in *Rohit Verma Vs. State of Punjab and others* in **CRM-M-33308-2024** decided on 17.07.2024.

8. The cardinal rule of interpretation of statutes is to read the statute literally and give the words their grammatical and natural meaning. If that is contrary to, or inconsistent with, any express intention or declared purpose of the statute, or if it would attract any absurdity, repugnancy or inconsistency, the grammatical sense must then be modified, extended or abridged, so far as to

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avoid such an inconvenience, but no further (*See: Craies on Statute Law, Seventh ed. Page 83-85*). A perusal of subsection (3) of Section 125, Cr.P.C. discloses that the Magistrate is empowered to issue warrant for recovery of the maintenance due in the manner provided for levying fines and may also sentence such person for the whole or any part of each month's allowance to imprisonment. The word “*and*” has to be given its plain and literal meaning and as such, has to be interpreted as a conjunctive term. Since the overarching intent of Chapter IX of Cr.P.C. is to maintain the neglected spouse and minor children and provide them with sufficient monthly allowance to enable them to lead a life of dignity, giving the word “*and*” its literal meaning would only better achieve the objective of recovering the amount of arrears and facilitate the payment of maintenance.

9. A perusal of the impugned order passed by learned Family Court makes it evident that the petitioner has failed to pay the arrears of maintenance, therefore, learned Family Court has correctly issued fresh conditional warrants and ordered attachment of the property of the petitioner within 07 days of furnishing a list for the same. The petitioner cannot be allowed to feign ignorance as to the amount due, as he had filed a revision petition before this Court, challenging the order dated 13.10.2023 (Annexure P-1), vide which interim maintenance was granted to respondent No.2, which was dismissed vide order dated 15.01.2024 (Annexure P-2). In spite of the same, the petitioner has not showed up in the Court to make the requisite payment.

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10. Therefore, in view of the discussion above, aforementioned three petitions are dismissed being bereft of any merit.

11. All the pending miscellaneous application(s) if any, shall also stand disposed of.

30.07.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

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