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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42253-2022 (O&M)
Date of decision: 25.07.2024

Yogesh Kumar

...Petitioner

Versus

Kamlesh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prashant Singh Chauhan, Advocate
for the petitioners.

Mr. Sudhir Rana, Advocate
for the respondent.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been filed praying for setting aside the impugned order dated 04.06.2022 (Annexure P-8) passed by learned Principal Judge, Family Court, Rewari, whereby conditional warrants of arrest of the petitioner had been issued.
2. Succinctly, the facts are that marriage of the petitioner was solemnized with the respondent on 06.05.2011. Two children were born out of this wedlock. The matrimonial dispute ensued and consequently, the

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respondent-wife filed an application under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') on 12.11.2018 and learned Family Court, vide its order dated 15.01.2020, proceeded ex-parte against the petitioner and granted maintenance to the tune of Rs.5,000/- per month to the respondent. As soon as the petitioner found out about the ex-parte order, he filed an application for setting aside the same, wherein notice to the respondent-wife has already been issued (Annexure P-7). Thereafter, the respondent-wife filed an application for execution of the judgement dated 15.01.2020, wherein conditional warrants of arrest were issued against the petitioner by passing the impugned order, which is under challenge in the instant petition.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was never served in the proceedings under Section 125 Cr.P.C. and he was proceeded against ex-parte by learned Court below. He submits that both the children born out of the wedlock between the parties, are in the custody of the petitioner. The petitioner is working as a labourer and his children as well as his parents heavily rely on him for their survival and he is only earning Rs.14,000/- per month. It is also submitted that the respondent-wife has filed an execution petition for recovery of arrears of maintenance amount and for the same, conditional warrants of arrest have been issued

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against the petitioner. Given his expenses and liabilities, the petitioner is unable to deposit the aforesaid amount.

4. Learned counsel for respondent contends that the matter was referred for mediation, but the same remained unsettled due to unwillingness of the petitioner to pay the due amount. This petition is nothing, but a way to by pass his responsibilities and deserves dismissal.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance. It transpires that notice in the proceedings under Section 125 Cr.P.C. was duly served upon the petitioner but he intentionally remained absent before learned Family Court. It comes to the fore that after the conditional warrants of arrest were issued against the petitioner, he appeared before the concerned Court and made a payment of Rs.12,000/- out of total amount of Rs.1,58,000/- towards arrears. Since the petitioner failed to provide any details qua the movable and immovable property owned by him, the conditional warrants of arrest were rightly issued against the accused.

6. Since the petitioner failed to pay the full amount of arrears qua the maintenance granted to the respondent and further failed to provide the details of his movable and immovable property, learned trial Court was left with no other option, but to issue conditional warrants of arrest qua the petitioner.

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7. In view of the above, no ground for interference by this Court is made out. Hence, the present petition stands dismissed.

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

[HARPREET SINGH BRAR]
JUDGE

25.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No