

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-1150-2022 (O&M)

Date of order: 13.02.2024

Sukhvinder Singh

.....Petitioner(s)

Vs.

Parvinder Kaur & Others

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rahul Rana, Advocate
for the petitioner.

Nidhi Gupta, J.CRM-44497-2022

This is an application under Section 5 of Limitation Act seeking condonation of delay of 16 days in filing the petition.

After going through the contents of the application, the same is allowed, subject to all just exceptions and delay of 16 days in filing the present petition is hereby condoned.

CRM-6317-2024

This is an application under Section 482 Cr.P.C. for placing on record better affidavit of the petitioner.

After going through the contents of the application, the same is allowed, subject to all just exceptions and better affidavit of the petitioner is taken on record.

MAIN CASE

Challenge in the present petition is to the order dated 30.07.2022 passed by learned Principal Judge (Family Court), Panchkula, whereby in a petition filed by the respondents under Section 125 Cr.P.C. in case No.MNT/354/2019 titled as “Parvinder Kaur & Others Vs. Sukhvinder Singh”, the Id. Family Court has granted interim maintenance of Rs. 25,000/- per month as follows: Rs.10,000/- per month to respondent No.1 (wife), Rs.5,000/- per month to respondent No.2 (minor male child); and Rs.5,000/- per month extra to respondent No.2 for his medical treatment; and Rs.5,000/- per month to respondent No.3 (minor female child).

2. Learned counsel for the petitioner-husband inter alia submits that the respondent No.1 had left the matrimonial home of her own accord and had refused to live with the petitioner. It is further submitted that respondent No.1 has continuously harassed the petitioner and has even filed a false and frivolous FIR No.67 dated 21.05.2019 against the petitioner, and therefore, petition filed by her under Section 125 Cr.P.C. on 30.04.2019, was not maintainable.

3. Learned counsel for the petitioner further contends that while passing the impugned order, learned Family Court has failed to appreciate that the petitioner was unemployed from 30.04.2019 till December, 2019; and thereafter, again from April, 2020 to April, 2021. It is submitted that it is only since February, 2022 that the petitioner started his present employment with Alorica India Pvt. Ltd. on a net salary of Rs.59,608/- per month. As such, the impugned order whereby the petitioner has been directed to pay interim maintenance from the date of

filing of application i.e. from 30.04.2019, is prima facie wrong. It is further submitted that respondent No.1 is a highly educated well qualified woman, who is intentionally not working, only to fleece money from the petitioner.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel for the petitioner.

6. Brief facts of the case are that the petitioner was married to respondent No.1 on 04.01.2015. Two children being respondents No.2 and 3 herein were born out of this wedlock, who are admittedly in the care and custody of respondent No.1/wife.

7. The following findings recorded in order dated 30.07.2022 passed by learned Principal Judge, Family Court, Panchkula are relevant and reproduced hereinbelow:-

“8. As regards the position put forth by the respondent himself, he has also furnished affidavit with regard to his assets and liabilities. In Part-A of the city affidavit it is stated that his age is 39 years and he is graduate and residing at his parental home. In Part-F of the affidavit it is stated that he is working as Manager Operations with Alorica India Private Limited and his gross salary is Rs.42,250/- per month but payslip has not been placed on record. He has also placed on record copy of income tax return for the assessment year 2019-2020 as per which his gross salary was Rs.5,64,395/- or to say Rs.47,000/- per month approximately. The said return was filed on 26.07.2019 and thereafter, period of more than three years has elapsed and hence, his income must have increased during this period. It is pertinent to mention that the income tax returns for the subsequent period have not been placed on record by the respondent. In these circumstances, it can be said that presently the respondent must be earning a salary of Rs.60,000/- to 70,000/- per month approximately. In part-G of the affidavit it is mentioned that he has no immovable properties in his name. In Part-C of the affidavit it is stated by the respondent that his parents are dependent on him but at the same it is also stated that he is residing at his parental

home and his father is getting pension, the amount of which has not been mentioned.”

8. A few facts admitted on record are as follows:-

a) That as per the copy of income tax return for the assessment year 2019-2020 placed on record by the petitioner before the learned Family Court as also this Court, his gross income was Rs.5,64,395/- or Rs.47,000/- per month;

b) That although the petitioner has pleaded that he was not employed i.e. he had no income during the pendency of the application/petition under section 125 Cr.P.C. yet, he did not produce the income tax returns for the subsequent years in his support before the learned Family Court;

9. Moreover, the said plea of the petitioner seems to be utterly false as a perusal of the reply dated 22.12.2021 (Annexure P-2) filed by the petitioner to the respondents' petition under section 125, as also the reply filed to the respondents' application dated 30.4.2019 for interim maintenance, shows that it has nowhere been pleaded therein that the petitioner was ever unemployed for the periods as mentioned in the present revision petition;

10. Thus, clearly the petitioner is trying to mislead this Court. In any eventuality, the alleged unemployment of the petitioner ceases to be significant as it is now the admitted and pleaded case of the petitioner that since February, 2022 he has been employed with Alorica India Pvt. Ltd. on a net salary of Rs.59,608/- per month;

11. Furthermore, the petitioner is residing with his parents and his father is drawing pension. Therefore, the petitioner has no liabilities.

12. As such, in view of all of the above facts, no ground whatsoever is made out as to why the petitioner is unable to comply with the impugned direction.

13. However, despite the above admitted position, the record bears out that the Petitioner has shown an intractable and uncooperative attitude. Vide order dated 21.11.2022, the petitioner was directed to furnish the detail of outstanding amount and the amount of interim maintenance paid by the petitioner till date. Pursuant thereto, the petitioner filed affidavit dated 23.01.2023 in which he admitted that he had not paid any maintenance to the respondents from the date of application i.e. 30.04.2019 till 30.12.2022 and was in arrears amounting to Rs.11 lakh out of which, the petitioner had paid only Rs.1,20,000/- on 19.01.2023. Vide order dated 14.11.2023, the petitioner was again directed to file a better affidavit depicting the arrears of maintenance, and the amount paid till date. Thereafter the petitioner has filed affidavit dated 01.02.2024, as per which it is claimed that the following payments have been made to the respondents:

Date of Transactions	Transfer Mode	Transfer amount
23.01.2023	CHEQUE	1,20,000
23.03.2023	Online Transfer	25,000
12.04.2023	Online Transfer	20,000
16.5.2023	Online Transfer	1,00,000
26.06.2023	Online Transfer	1,00,000
14.07.2023	Online Transfer	1,35,000
08.08.2023	Online Transfer	50,000
26.09.2023	Online Transfer	25,000
16.10.2023	Online Transfer	25,000

13.11.2023	Online Transfer	25,000
05.12.2023	Online Transfer	25,000
03.01.2024	Online Transfer	25,000
01.02.2024	Online Transfer	25,000
TOTAL		7,00,000

14. It is admitted by learned counsel for the petitioner that as on date the petitioner is still in arrears of Rs.7 lakh.

15. Needless to say, it is the moral duty and obligation of the petitioner to maintain his children. Respondent No.1 albeit qualified B.Ed. M.A., is unable to maintain herself as she is not in a job as she has two minor children to look after. Thus, very clearly present petition does not warrant interference by this Court.

16. **Dismissed.**

17. Pending application(s) if any also stand(s) disposed of.

13.02.2024

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No