

214 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

1) CRR(F)-1336-2023  
Reserved on: 11.09.2024  
Pronounced on: 13.09.2024

Harvinder Kaur @ Harvinder Kaur Grover ....Petitioner

## Versus

Tarvinder Singh Grover ...Respondent

2) CRR(F)-1418-2023

Tarvinder Singh Grover ...Petitioner

Versus

Harvinder Kaur ...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. P.S. Ahluwalia, Advocate and  
Mr. Keerat Dhillon, Advocate  
for the petitioner in CRR(F)-1418-2023 and  
for the respondent in CRR(F)-1336-2023.

Mr. Munish Gupta, Advocate  
for the petitioner in CRR(F)-1336-2023 and  
for the respondent in CRR(F)-1418-2023.

HARPREET SINGH BRAR, J.

1. This order of mine shall dispose of two criminal revision petitions bearing Nos. CRR(F)-1336-2023 and CRR(F)-1418-2023. However, for the sake of brevity, the facts are taken from CRR(F)-1418-2023. The subject matter of challenge in both the petitions is order dated 11.08.2023 passed by the learned Additional Principal Judge, Family Court, Patiala, under Section 128 Cr.P.C., vide which the petitioner was held liable to pay maintenance to the

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The sum of Rs. 1 lakh per month to the respondent with effect from 01.07.2021

alongwith earlier arrears of maintenance amounting to Rs. 4,40,000/-.

2. The marriage between the petitioner and the respondent was solemnized on 24.09.1974. Three children were born out of the wedlock. Unfortunately, one son, namely, Amrinder Singh passed away in the year 2007. Subsequently, matrimonial relations deteriorated between the couple and the respondent filed a petition under Section 125 Cr.P.C. seeking maintenance for herself. During the said proceedings, a compromise deed (Annexure P-1) was executed *inter-se* the parties, vide which it was agreed that the petitioner would transfer Rs. 30,000/- per month into the bank account of the respondent, incur her medical expenditure, not interfere or dispossess the respondent from the matrimonial home, maintain the house and carry out civil works periodically in this regard, among other things. Further, it was agreed that in the event of default on the part of the petitioner, not only will the petitioner have to pay the outstanding arrears of maintenance amounting to Rs. 4,40,000/- as on the date of the settlement, but he will also be held liable to pay Rs. 1,00,000/- per month as maintenance therefrom. The relevant clauses of the compromise deed are as follows:

*“1. That Party No.1 undertakes to pay regular maintenance to party No.2 of Rs. 30,000/- per month, the said money will be transferred in the 2nd week of the every month in the bank account of Party No.2*

*2. That Party No.1 has also agreed to pay regular electricity bill charges of the consumption which is being used No.2. in the matrimonial home by the party No.2.*

*3. That Party No.1 is running a medical store under the name and style of M/s Grover Sons Sheran Wala Gate, Patiala. The party No.1 has agreed to provide all the medicines etc. to party No.2 free of cost and the party No.2 will be entitled to collect all the medicines etc. required for her personal use.*

*4. That the party No.2 is residing in a matrimonial home i.e. H. No. 29/4, Gian Niwas Sheran Wala Gate, Patiala, and party No.1 undertakes not to interfere or dispossess the party No.2 in any manner and party No.2 has every right to utilize in any manner. The 1<sup>st</sup> floor of the said house is*

*in possession of the son namely Charanpreet Singh.*

*5. That the Party No. 1 will provide the time to time maintenance of the House & other civil works done periodically and will get the paint, whitewash etc after every four years.*

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*7. That by virtue of this compromise the parties have agreed to withdraw all the cases i.e. petition filed-by party No.1 pending before the Hon'ble Supreme Court of India, petition filed by party No.1 before the family court challenging the order of Lower Court for grant of interim maintenance, the petition filed by party No.2 against party No.1 U/s 125 Cr.P.C. and also for enhancement of interim maintenanc: pending before the family court, Patiala.*

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*9. That Party No. 1 still owes an amount of Rs. 4,40,000/- towards interim maintenance in 125 C.R.PC proceedings which is still pending. Party No. 2 had forgone her claim on the ground that Party No. 1 had agreed to pay maintenance of Rs. 30,000/- from 1.3.2018 which is being paid through cheque no. 168222 dated 15/3/2018 drawn on Punjab National Bank for the aforesaid amount.*

*10. That in case the party No.1 backs out from the said compromise/ agreement, then party No.2 will be entitled for maintenance of Rs. 1,00,000/- per month from due date alongwith arrears due given up amounting to Rs. 4,40,000/- which she can recover as per law against Party No. 1.”*

3. In light of the compromise, the learned Civil Judge (Senior Division), Patiala, vide order dated 20.02.2018 (Annexure P-2) disposed of the petition filed under Section 125 Cr.P.C. in terms of the compromise. Eventually, the petitioner defaulted on making payment of the maintenance amount and the respondent was constrained to file a petition under Section 128 Cr.P.C. for implementation of order dated 20.02.2018. Resultantly, the petitioner was held liable to pay maintenance to the sum of Rs. 1 lakh per month to the respondent with effect from 01.07.2021 along with earlier arrears of maintenance amounting to Rs. 4,40,000/-, vide impugned order dated

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been regularly paying the settled amount of Rs. 30,000/- per month w.e.f. 01.03.2018 by transferring the said amount in the second week of every month in the account of the respondent and has also been regularly paying the electricity charges and providing free medicines. The default has occurred only in the months of April, May and July 2020, when the COVID pandemic was at its peak and thereafter, the petitioner continued to pay the settled amount. However, the legal notice was sent to the petitioner by respondent on 28.06.2021. Thereafter, on 04.08.2021, the respondent instituted petition under Section 128 of Cr.P.C. Surprisingly, the respondent even after receiving the entire maintenance amount, resorted to sending the legal notice. The respondent has received Rs. 5,70,000/- and only Rs. 19,000/- was the remaining balance and the petitioner has paid the entire amount including the medical expenses till 31.03.2023. The default of three months occurred due to the lockdown imposed during Covid and the bank account of the petitioner was declared as NPA. Further, the respondent cannot blow hot and cold since on the one hand the respondent continued to stay in the matrimonial home and kept on receiving the settled amount along with free medicine and her electricity charges paid for and on the other hand, she has also raised the issue of default payment. Prior to and post the months of April, May and July 2020, there has been no default on the part of the petitioner. Learned Executing Court has passed the impugned order while relying upon the fact that as per the settlement, the petitioner failed to withdraw the Special Leave Petition pending before the Hon'ble Supreme Court. Learned counsel for the petitioner further relies upon the legal notice (Annexure P-4) as well as the petition filed under Section 128 Cr.P.C. (Annexure P-5) and submits that the respondent has not even made a whisper with regard to the pendency of the SLP, either in legal notice or in petition filed under Section 128 of Cr.P.C. Further, the perusal of

the order passed by Hon'ble Supreme Court clearly indicates that petitioner never pursued the petition and no one appeared on his behalf and it was disposed of in terms of the compromise effected between the petitioner and the respondent. Accordingly, to evaluate the effect of the default of payment of three months, all surrounding circumstances are required to be seen. The petitioner as well as the respondent are senior citizens and merely because of non-payment of maintenance of 03 months, learned trial Court ought not to have passed the impugned order.

5. Per contra, learned counsel for the respondent submits that the respondent was well within her rights to invoke Clause 10 of the settlement on account of default made by the petitioner. The respondent is a cancer patient, and the petitioner has not only defaulted in making payment of Rs. 30,000/- per month as maintenance but also did not provide medicines to her, as per the settlement deed. The petitioner is an affluent person and is one of the biggest wholesale medicine suppliers in the city. Learned counsel refers to the petition filed under Section 128 of Cr.P.C. and contends that in para No. 4 of the said petition, the default of electricity charges and medicines were clearly pleaded and it is not merely a default of Rs. 30,000/- per month. Further, the respondent was compelled to engage a lawyer to defend the SLP and this was in explicit breach of the compromise. Moreover, when the petitioner filed CRR(F)-522-2021, he pleaded that during the period of April, May and July, 2020, the maintenance was paid in cash and receipt of the cash payment was obtained. However, even after liberty was granted to the petitioner to file objections before the Executing Court, he has never produced the said receipt. As such, the learned Executing Court has rightly saddled the petitioner with the payment of Rs. 1,00,000/- per month. However, learned Executing Court has not passed any order with regard to electricity charges and free medicines and therefore, learned counsel prays for modification of the impugned order in this regard.

6. Having heard, learned counsel for the parties and after perusing the record with their able assistance, it transpires that the totality of circumstances would reveal that the respondent has continued to receive the benefits in terms of the compromise deed as well the benefits derived upon invoking the default clause. The respondent continues to live in the matrimonial home, the electricity bill of which is paid by the petitioner. Moreover, the petitioner has been regularly transferring Rs. 30,000/- per month to the bank account of the respondent, barring the months of April, May and July for the year 2020. It appears that the respondent has not forgone her other benefits while also receiving a sum of Rs. 1 lakh per month, which becomes payable once the petitioner violated the compromise deed.

7. Further, a perusal of the legal notice (Annexure P-4) indicates that it was sent by the respondent in the month of June 2021 after more than one year from the alleged default. Similarly, even the execution petition was instituted after a lapse of one year for which no reasonable explanation has been put forth by the respondent.

8. This Court is of the considered opinion that the petitioner ought not to be penalised merely because he defaulted on the payment of the maintenance amount for three months, when the world was completely in the grip of the pandemic. The Hon'ble Supreme Court in a number of judicial orders has recognised the exceptional circumstances forced on the world by COVID. Since the element of malice or wilful default is absent on the part of the petitioner, as apparent from his conduct and other surrounding circumstances, the Court is bound to take a compassionate view.

9. A study of the impugned order reveals that another reason adopted by the learned Court below in holding that the petitioner violated the compromise deed, more specifically clause 7, was the fact that he did not withdraw the SLP bearing No.2442 of 2018 that was pending before the

Hon’ble Supreme Court. However, it is imperative to note that neither the petitioner nor his counsel appeared before the Hon’ble Supreme Court to contest his case after the execution of the compromise and the Hon’ble Supreme Court vide order dated 08.08.2023 disposed of the petition in view of the said compromise deed.

10. Accordingly, the present petition i.e. CRR(F)-1418-2023 filed by the husband is allowed, and the impugned order dated 11.08.2023 passed by the learned Additional Principal Judge, Family Court, Patiala, is set aside. Consequently, the petition filed by the wife i.e. CRR(F)-1336-2023 is hereby dismissed, however, the petitioner is directed to continue to abide by the terms and conditions of the compromise deed (Annexure P-1).

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

(HARPREET SINGH BRAR)  
JUDGE

13.09.2024  
Neha

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