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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR(F)-1449-2023

Date of decision: 16.07.2024

Karan Mehta

....Petitioner

Versus

Deepika

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Jaspreet Kaur, Advocate and
Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Mr. Nitin Sachdeva, Advocate
for the respondent.

HARPREET SINGH BRAR, J.

1. The present revision petition has been preferred against the impugned order dated 21.08.2023 passed by the learned Additional Principal Judge, Family Court, Ludhiana, in case bearing No. MNT125/2401/2019 titled as Deepika Vs. Karan Mehta, whereby the right of the petitioner to cross-examine the respondent was curtailed and it was further directed that in case the entire outstanding maintenance amount is not paid on the next date of hearing, then the right of the petitioner to lead evidence shall also be excluded.

2. The marriage between the petitioner and the respondent was solemnized on 17.10.2013 as per Hindu rites and rituals. Due to temperamental differences resulting in matrimonial dispute, the respondent left the matrimonial house in 2017 and has been living in her paternal home since then. Thereafter, the respondent filed an application under Section 125 Cr.P.C. seeking maintenance to the tune of Rs. 25,000/- per month. During the pendency of proceedings, the respondent filed an application seeking *ad-interim* maintenance, which was allowed vide order dated 14.07.2022 and



interim maintenance to the tune of Rs. 4,000/- was granted to the respondent. Due to non payment of the same, the learned Additional Principal Judge (Family Court), Ludhiana passed the impugned order dated 21.08.2023 whereby the right of the petitioner to cross-examine the prosecution witnesses stood curtailed till the time 75% of the total overdue amount is not paid. Further, as per the impugned order, in case the entire outstanding amount was not paid on the next date of hearing i.e. 18.09.2023, then the right to lead defence evidence was also to be excluded.

3. Learned counsel for the petitioners submits that the learned Court below while passing the impugned order did not consider the fact that the petitioner is paying a substantial amount on every date and the same can be verified from the zimni orders. The petitioner paid an amount of Rs. 20,000/- out of the total outstanding amount on 18.09.2023. Further, the petitioner is only earning a meagre sum of Rs. 8750/- per month. Despite this, he is regularly paying some amount some amount on every date in order to clear the amount of arrears. The total outstanding amount is around Rs. 1,80,000/- from the date of the application out which the petitioner has already paid Rs. 1,03,000/-. Keeping this mind, the learned Court below ought not to have taken such a drastic step.

4. Per contra, learned counsel for the respondent opposes the prayer of the petitioner as the learned trial Court has passed a well-reasoned order keeping in mind the circumstances and the sufferings endured by the respondent. The respondent has no source of income. Further, she does not possess any property and as such, no interference is warranted by this Court.

5. I have heard learned counsel for the parties and perused the record.



6. A perusal of the zimni orders (Annexures P-4 to P-7) shows that the learned trial Court has granted sufficient opportunities to the petitioner to pay the outstanding amount and in spite of that, the petitioner failed to pay the arrears. Although some payments were made every now and then, the said payments were never to the satisfaction of the learned trial Court. Ultimately, vide impugned order dated 21.08.2023, the learned trial Court rightly curtailed the right of the petitioner to cross-examine the respondent and directed that in case the entire outstanding maintenance amount is not paid on the next date of hearing, then the right of the petitioner to lead evidence shall also be excluded.

7. It is trite law that an able-bodied husband is legally and morally bound to maintain his wife. However, if the husband is unemployed or documentary proof qua his income is not available, it can be reasonably assumed that he can work as a labourer and earn the prevalent minimum wage. Reliance in this regard can be placed on judgments rendered by the Hon'ble Supreme Court in ***Bhuwan Mohan Singh vs. Meena 2014(3) R.C.R(Criminal) 723*** and this Court in ***Amanjot Singh vs. Rajwant Kaur 2017(1) R.C.R(Criminal) 1070***, ***Satish @Bittoo vs. Suresh Devi 2018(1) Law Herald 595***, ***Dalip Kumar @ Deepa vs. Sunita and another 2012(2) R.C.R.(Criminal) 434*** and ***Sandeep vs. Suman in CR-1802-2023 decided on 22.03.2023***. Therefore, the contention of the learned counsel for the petitioner that the petitioner earns a meagre sum of Rs. 8750/- per month, cannot be appreciated.

8. In the absence of any cogent reasons as to why the remaining outstanding amount of maintenance has not been paid by the petitioner despite availing several opportunities, the learned Court below rightly passed the aforementioned directions and therefore, no infirmity is found in the impugned order.

9. Accordingly, the present petition is dismissed being bereft of any merit.

(HARPREET SINGH BRAR)
JUDGE

16.07.2024
Neha

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