



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

128

CRM-M-27991-2025 (O&M)

Date of Decision: 21.05.2025

Sunil Kumar

...Petitioner

Versus

Gurwinder Kaur and another

...Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. Naresh Chander, Advocate for the petitioner.

KIRTI SINGH, J.(Oral)

The instant petition under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023, has been filed for modification of the order dated 16.04.2025, passed by the learned Family Court in case No. 592-2024, whereby the Court has passed the order on an application filed by respondents under Section 128 of the Cr.P.C. on the basis of statement Annexure P-2) of the petitioner, which was made on the instructions of his counsel without proper guidance, despite the fact that petitioner is having salary to the tune of Rs.14,000/- per month and also having a special (handicap) child and old age and ill mother to maintain.

2. The brief facts of the case that the marriage between the petitioner/husband and respondent No.1/wife was solemnized on 11.03.2007 at Sibia Palace, Malsian, Tehsil Shahkot, District Jalandhar, Punjab, as per Hindu rites and ceremonies. Two male children were born out of this wedlock. Respondent No.1 filed a petition under Section 13 of the Hindu Marriage Act, 1955, seeking divorce on grounds of cruelty and



desertion. The petitioner was proceeded against *ex parte* vide order dated 12.09.2022, and the divorce was granted by the learned Additional Principal Judge, Family Court, Jalandhar (Camp Court at Nakodar) on 20.02.2023. (Annexure P-1). Respondent No. 1 also filed a petition under Section 125 Cr.P.C. seeking maintenance, which was allowed on 05.04.2023. Maintenance of ₹3,000/month was awarded to respondent No.1 and ₹5,000/- per month to respondent No.2, despite the fact that the elder son who is a special (handicap) child is in the custody of the petitioner.

3. Subsequently, respondent No.1 and her son filed an application under Section 128 Cr.P.C. on 08.04.2024 for enforcement of the maintenance order dated 05.04.2023. The matter was compromised vide order dated 16.04.2025, wherein the petitioner agreed to pay ₹3,00,000 (₹1.5 lakh each to wife and son) in installments, considering his limited income of ₹14,000/month as a Security Guard and his responsibility to support his specially-abled son and ailing mother.

4. Learned counsel for the petitioner submits that the petitioner was not fully informed by the counsel about the specific terms of compromise and was told only that the amount of ₹3,00,000 is payable in installments. Relying on this, he consented and signed the compromise. However, he later came to know that the payment was to be made in only two large installments which would be due on 26.05.2025 and 07.07.2025. The petitioner, upon realizing the actual terms, moved an application before the Family Court for modification, citing his financial



condition, however, the same was not considered (Annexure P-7). Learned counsel restricting his prayer submits that due to financial hardship, the petitioner is unable to make payment in two lump sums but is fully willing to pay the entire settled amount in 08 monthly installments.

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

6. In view of the facts and circumstances stated above, and keeping in view the financial status of the petitioner and his duty to take care of his specially abled child and aged ailing mother, the order dated 16.04.2025 (Annexure P-3) is hereby set aside. The case is remanded back to the learned Trial Court with a direction to pass a fresh order in view of the submissions made by learned counsel for the petitioner herein above, in accordance with law.

7. The petition is disposed of accordingly.

(KIRTI SINGH)
JUDGE

21.05.2025
Kapil

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