

(2013) 07 P&H CK 0355

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M 23483 of 2013

Deepak Panchal

APPELLANT

Vs

Bhavana Panchal and Another

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 128, 397, 397(3), 482

Citation : (2013) 07 P&H CK 0355

Hon'ble Judges : Rekha Mittal, J

Bench : Single Bench

Advocate : Vivek Khatri, for the Appellant;

Final Decision : Dismissed

Judgement

Rekha Mittal, J.—The petitioner has approached this Court u/s 482 of the Code of Criminal Procedure (hereinafter referred to as "the Code") for quashing orders dated 26.08.2010 (Annexure P1) and 27.08.2011 (Annexure P2), passed by the Chief Judicial Magistrate, Kurukshetra and order dated 23.05.2013 (Annexure P3), passed by the Additional Sessions Judge, Kurukshetra. A perusal of the records reveal that the petitioner has been directed to pay maintenance allowance to his wife Bhavna Panchal and Mannat, minor daughter of the parties in proceedings u/s 125 of the Code. As the petitioner failed to pay maintenance allowance in compliance with the order passed by the Court, conditional warrant of arrest has been issued against him in execution proceedings initiated u/s 128 of the Code.

2. The petitioner earlier filed CRM M 29325 of 2011, invoking jurisdiction of this Court u/s 482 of the Code, to assail the orders passed by the Chief Judicial Magistrate, Kurukshetra, again sought to challenge in the present petition. The said petition was disposed of by this Court. A relevant extract from order dated 14.02.2013 passed in the aforesaid petition is quoted hereinunder:-

After arguing for some time, counsel for the petitioner prays for permission to

withdraw this petition.

Allowed as prayed for. Dismissed as withdrawn.

3. Subsequent thereto, the petitioner filed a revision petition before the Court of Sessions at Kurukshetra, challenging orders dated 26.08.2010 and 23.08.2011, passed by the Chief Judicial Magistrate, Kurukshetra by way of revision u/s 397 of the Code. As the petitioner was unsuccessful before the revisional Court, he has again approached this Court by filing the present petition u/s 482 of the Code to assail the orders passed by the Court of the Chief Judicial Magistrate, Kurukshetra and the order passed by the revisional Court.

4. On due consideration of the entire facts stated hereinabove, it appears that the petitioner is guilty of abusing and misusing the process of law and wasting the time of the Court. It is strange rather incomprehensible that as the petitioner earlier withdrew the petition filed u/s 482 of the Code, without any permission by this Court to file a fresh petition, on the same cause of action, he again approached this Court, invoking its extra-ordinary jurisdiction u/s 482 of the Code. The petitioner is putting his best efforts to escape his liability to pay maintenance to his wife and minor child. It appears that the petitioner has enough money to spend on litigation and to engage counsel for initiating proceedings in different Courts on different occasions, but he does not have money to pay to his family.

5. The petitioner, admittedly, challenged orders dated 26.08.2010 and 27.08.2011 by way of revision before the Court of Additional Sessions Judge, Kurukshetra but was unsuccessful. The petitioner cannot be allowed to seek indulgence of this Court u/s 482 of the Code. The jurisdiction u/s 482 of the Code can be exercised by this Court, despite bar created u/s 397(3) of the Code, only if the Court is of the opinion that exercise of such jurisdiction is warranted to prevent abuse and misuse of process of law or miscarriage of justice. On the contrary, in the instant case, if the petitioner is allowed to seek indulgence of this Court u/s 482 of the Code, it would tantamount to permitting him abusing and misusing process of law, on mere asking. For the reasons recorded hereinabove, the petition is dismissed in limine.