

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-13709 of 2016

.....

Date of decision:27.8.2016

Johan Peter

.....Petitioner

v.

Kaka Chander

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Yogesh Goyal, Advocate for the petitioner.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for setting aside the order dated 25.2.2016 (Annexure-P.1) passed by learned Additional Sessions Judge, Gurdaspur and summoning order dated 19.8.2014 (Annexure-P2) passed by learned Judicial Magistrate Ist Class, Batala.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the learned Judicial Magistrate Ist Class, Batala, passed the summoning order dated 19.8.2014 to summon the accused including the present petitioner. The revision petition was filed before the learned Sessions Court having the delay of one year, four months and five days. The learned Additional Sessions Judge, Gurdaspur, vide order dated 25.2.2016 dismissed the application filed for condonation of delay and the revision petition was dismissed as time barred. The present

petitioner has taken the plea before the revisional Court regarding the delay that conditional warrants regarding non-payment of compensation has been issued against him in maintenance proceedings in a Court at Batala. There was no other explanation given by the petitioner to explain the delay. The learned Additional Sessions Judge observed in the order that no doubt the Courts are required to take liberal view regarding the delay, but this is true where the delay is reasonable one and is also duly justified. The revisional Court held that the conduct of the present petitioner is of such a nature that he has not paid the maintenance to the minor daughters and the Court has to take coercive method to get recovered the same and issued the conditional warrants for recovery of arrears of maintenance. The Court below has also reached to the conclusion that the delay has not been explained and no plausible explanation has come on record. Otherwise also, even if it is taken that conditional warrants have been issued by the Court at Batala against the present petitioner, even then the petitioner can approach the Court to file the revision petition against the summoning order and his presence before the revisional Court was not necessary. There was no problem with the petitioner to engage a counsel during that period.

Therefore, from the above, I find that the petitioner is gross negligent in filing the revision petition after delay of one year, four months and five days. The delay has not been explained by giving any plausible explanation. The order dated 25.2.2016 passed by the learned Additional Sessions Judge, Gurdaspur, is correct as per law and does not require any interference from this Court.

[3]

Therefore, finding no merit in this petition, the same is dismissed.

August 27, 2016.

(Inderjit Singh)
Judge

hsp

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