

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

Crl. Misc. No.M-42081 of 2015 (O&M)

Date of Decision: 29.08.2016

Rajesh Sharma

.. Petitioner

Vs.

Manisha Sharma & Anr.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Vineet Singh Sengar, Advocate
for the petitioner.**

**Mr. Vipin Mahajan, Advocate
for the respondents.**

ANITA CHAUDHRY, J.

This is a petition filed under Section 482 Cr.P.C. for quashing the order dated 01.04.2015 vide which the petitioner was proceeded ex-parte in the petition filed under Section 125 Cr.P.C.

The revision filed by the petitioner was dismissed.

An ex-parte order was passed on 31.01.2011 in a petition filed under Section 125 Cr.P.C. where maintenance was awarded to the wife. The ex-parte order was set aside subject to the condition that the petitioner should first clear the arrears. When the petition came up for hearing on 11.12.2015, learned counsel for the petitioner had not touched the merits of the case and had offered to pay the arrears in four monthly installments. The petitioner was accordingly directed to deposit Rs.1 lac as first installment. On appearance of the respondent, on an application for clarification, the following order was passed on 26.02.2016:-

“This is an application for clarification of the order dated

11.12.2015. In paragraph No.2 of the order, it has been mentioned as follows:-

“Learned counsel for the petitioner has stated that on merits he would have no objection but the petitioner only requires that the arrears be made payable in instalments. He undertakes that the petitioner will pay the arrears in four monthly installments. Further states that the matter is now fixed for 18.12.2015 in execution.”

Thereafter, in the conclusion para of the order it has been mentioned as follows:-

“Let the respondents be served dasti through counsel in the Executing Court. It is made clear that in case the petitioner makes a deposit of Rs.1 lac on the date fixed, the remaining amount would be stayed. However, if the deposit is not made then this petition would be deemed to have been dismissed.”

It is clear that the stay granted was only in terms of the offer made by the learned counsel for the petitioner and therefore the petitioner would be bound to pay the other installments as per the offer made. However, since there was some confusion by the said order, it is clarified that the second installment will not have to be paid in the month of March, 2016 and then in April and May, 2016 respectively.”

learned counsel for the petitioner has filed miscellaneous application for placing on record the documents today in the Court. The same is allowed and documents are taken on record. Registry to number the same.

Learned counsel for the petitioner has referred to Annexure P-6 and states that the amount already received by respondent No.1 was

Rs.3,90,000/-

Learned counsel for the respondents states that Rs.4 lacs were due and one installment was paid on 18.12.2015 and since the petitioner has failed to pay the installment as was directed on 26.02.2016, he was not entitled to a hearing.

The petitioner had undertaken to pay the installments, but those have not been paid. It was made clear that in case the deposit was not made, then the petition would deemed to be dismissed. The petitioner has failed to clear the arrears. Therefore, the petition is dismissed.

August 29, 2016
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No