

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

**CRR (F) No.348 of 2016 (O&M)
Date of decision: 24.10.2016**

Mohd. Jahangir Khan

.....Petitioner

Versus

Chaman Ara

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harish Chhabra, Advocate,
for the petitioner.

Ritu Bahri, J.

CRM No.32027 of 2016

For the reasons mentioned in the application, same is allowed and delay of 32 days in filing of the petition is condoned.

CRR No.348 of 2016

Challenge in this petition is to the order dated 18.03.2016 passed by the District Judge, Family Court, Gurgaon, striking off the defence of petitioner (Mohd. Jahngir Khan) and Judgment dated 03.06.2016, whereby petition filed by respondent-wife (Chaman Ara) under Section 125 Cr. P.C. has been allowed and petitioner-husband has been directed to pay a sum of Rs.10,000/- per month as maintenance to the respondent from the date of filing of the petition i.e. 30.08.2014.

Learned counsel for the petitioner has referred to the order dated 14.03.2016 (Annexure P-2) passed by the Hon'ble Supreme Court, whereby

anticipatory bail has been granted to the petitioner. In the said order, it has been observed that both the parties had not disputed the fact that they have been divorced on 17.07.2014. Keeping in view this fact, learned counsel for the petitioner has argued that a Muslim woman, after divorce, does not have a right to claim maintenance under Section 125 Cr.P.C. In support of his argument, he has referred to the decision given by the Hon'ble Supreme Court in **Iqbal Bano Vs. State of U.P. and another**, Criminal Appeal No.795 of 2001 (decided on 05.06.2007).

A perusal of this judgment shows that giving of divorce to a Muslim woman has to be effective and has to be pronounced. The term 'pronounce' means to proclaim, to utter formally, to utter rhetorically, to declare to utter to articulate. In the present case, defence of the petitioner was struck off on 18.03.2016 and thereafter, he had sought one adjournment through his counsel. In these circumstances, even if the petitioner has been served and his defence has been struck off on 18.03.2016, the application under Section 125 Cr.P.C. was required to be decided on merits.

Resultantly, the impugned order dated 03.06.2016 is set aside and the matter is remanded back to the District Judge, Family Court, Gurgaon, to decide the petition under Section 125 Cr.P.C. afresh, after giving one effective opportunity to the petitioner to file his written statement, subject to payment of Rs.5000/- as costs.

Disposed of accordingly.

24.10.2016
ajp

(RITU BAHRI)
JUDGE