

In the High Court of Punjab and Haryana at Chandigarh

CRM -M-31685 of 2016

Date of Decision: 31.1.2017

Aadil Prabhakar

---Petitioner

versus

Sonu Sharma

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Pushpinder Kaushal, Advocate
for the petitioner**

**Mr. Abhinav Gupta, Advocate
for the respondent**

Rekha Mittal, J.

The present petition has been directed against order dated 12.8.2016 (Annexure P-6) passed by the Additional Sessions Judge, Bathinda whereby the revision petition preferred by the petitioner against order passed by the trial court allowing interim maintenance has been dismissed for want of prosecution.

The sole submission made by counsel for the petitioner is that the revisional court was obligated in law to decide the petition on merits even if there was no representation on behalf of the petitioner, therefore, the order impugned may be set aside with a direction to the revisional court to decide the petition on merits. In support of his contention, he has referred to judgment of Hon'ble the Supreme Court of India **Madan Lal Kapoor vs. Rajiv Thapar and others 2007(4) RCR (Criminal) 157.**

Counsel for the respondent has not disputed the legal position that a revision petition once entertained has to be decided by the Court on merits. However, it has been submitted that in another litigation pending before this Court, parties have been relegated to the Mediation and Conciliation Centre to explore possibility of an amicable settlement.

Counsel for the petitioner, in response, has argued that in case a settlement is arrived at between the parties, the petition filed before the Court below would be disposed of in the said terms.

I have heard counsel for the parties and perused the paper book.

Perusal of the impugned order and so also the submissions made by counsel for the parties make it evident that the revisional court dismissed the petition for non-prosecution when otherwise it was required to be decided on merits. As has been rightly argued by counsel for the petitioner that in case the parties settle their differences, the revision petition can be decided by the court below accordingly. In this view of the matter, the order impugned cannot be allowed to sustain and liable to be set aside. Ordered accordingly.

Parties through their counsel are directed to appear before the revisional court on 16.2.2017. The revisional court is directed to dispose of the petition within a period of two months from the parties putting in appearance.

(Rekha Mittal)
Judge

31.1.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No