

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Criminal Misc. No.M- 32494 of 2016(O&M)

Date of Decision: January 30 , 2017.

Dinesh PETITIONER (s)

Versus

Smt. Mamta RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. P.R.Yadv, Advocate
for the petitioner.

LISA GILL, J.

This petition is for quashing of order dated 21.01.2015 passed by the learned Judicial Magistrate First Class, Rewari and order dated 30.07.2016 passed by the learned Additional Sessions Judge, Rewari.

In a petition filed by the respondent under Section 125 Cr.P.C., the present petitioner (respondent in the said petition) had filed his reply. However he subsequently chose not to appear and was proceeded against ex parte. It was noted by the learned Judicial Magistrate First Class, Rewari in the impugned order dated 21.01.2015 that the interim maintenance at the rate of ₹4,000/- per month was not paid by the petitioner and none had appeared on his behalf to contest the case subsequently. While observing that the petitioner herein is well qualified and capable of getting an employment of a skilled labour, a sum of ₹6,000/- per month was directed to be paid to his wife and minor son from the

date of filing of the petition. The petitioner preferred a revision petition against this order, which was also dismissed on 30.07.2016 by the learned Additional Sessions Judge, Rewari. The learned revisional court has observed as under:-

“5. This court is not convinced with this argument because it is a case, wherein, the respondent had put in appearance through his counsel on dated 13.9.2011 in the original petition filed on written statement on dated 22.3.2013 after seeking an number of opportunities, and then elected to be proceeded exparte on 20.1.2015 before learned trial court after seeking a number of opportunities to make payment of the interim maintenance ordered to be payable vide order dated 2.8.2014 by learned trial court. Such conduct of the revisionist itself is indicative of the fact that he not only prolonged the proceedings because of his conduct but also intentionally avoided his appearance before learned trial court when vide its order dated 22.12.2014, learned trial court has adjourned the case for 20.1.2015 with directions that in case, interim maintenance is not paid by him, his defence would be struck off. A person of this kind, who has no respect for the legal order passed, do not deserve any sympathetic approach of the court. Moving further, to explain delay in filing revision, the revisionist has taken the plea that his counsel did not inform him about the proceedings of exparte. But this ground also appears to be an after thought seeing his previous conduct. Had he been sincere to the litigation, he would have had contacted his counsel to know about the latest proceeding of the pending trial, instead of sleeping of almost one year and six months to take a plea of knowledge though issuance of conditional warrants about the impugned judgment. It is not the case of the revisionist that he has paid the amount payable since the time of filing of the petition in the year 2010 and such conduct of his also shows that he has no respect for the law and has filed the present petition just to prolong the financial hardship faced by his wife and child since the year 2010. Since, there is no plausible

explanation for filing revision so late, this revision petition deserves to be dismissed solely on the ground of limitation.”

The petitioner has challenged the impugned orders passed by the learned courts below by filing this petition under Section 482 Cr.P.C. This Court on 15.09.2016 passed the following order:-

“The petitioner would place on record the reply filed in the petition under Section 125 Cr.P.C. The petitioner had failed to appear before Court below and was proceeded ex parte.

He further states that no amount has been paid till date.

Adjourned to 16.01.2017”

The matter was again adjourned on 16.01.2017 for today on the request of learned counsel for the petitioner. It is submitted that the petitioner has not contacted the counsel despite intimation and earnest efforts made by the counsel.

Learned counsel for the petitioner however submits that the impugned orders deserve to be set aside as the respondent-wife is working as PGT teacher. Reference is made to the information received from the Saraswati Senior Secondary School, Nangli Godha, Rewari (a part of Annexure P2). It is submitted that the details in the said information as well as the Matriculation Certificate indicate that this information is correct thus the same should be accepted by the Court as such. Learned counsel for the petitioner thus argues that the amount of maintenance granted to the respondent is unjustified and prays that the impugned orders be set aside.

I have heard learned counsel for the petitioner and gone through the file but do not find any ground whatsoever to interfere in the impugned orders.

Reference to the documents at Annexure P2 is irrelevant for the

simple reason that the same are not proved by the petitioner in accordance with law. The petitioner chose not to appear before the learned trial court after filing of his reply. Interim maintenance fixed by the learned Judicial Magistrate First Class, Rewari was admittedly not paid by him to the respondent. No reason is forthcoming for this default. Revision petition was filed by the petitioner laying challenge to order dated 21.01.2015 after a delay of about one and a half years. It has rightly been observed by the learned revisional court that there is no plausible explanation for filing of the revision at a belated stage. Furthermore, learned counsel for the petitioner is unable to point out any ground to show that the amount of ₹6,000/- per month which has been fixed as interim maintenance is unjustified in the facts and circumstances of the case. It is also not in dispute that the petitioner has taken no steps for compliance of order dated 15.09.2016 passed by this Court.

Keeping in view of the totality of the facts and circumstances, it cannot be said that any illegality or material irregularity has been committed by the learned courts in passing the impugned orders dated 21.01.2015 and 30.07.2016 which warrants interference by this Court in its jurisdiction under Section 482 Cr.P.C.

Consequently, this petition is dismissed being devoid of merit.

(LISA GILL)
JUDGE

January 30 , 2017.
'om'

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