

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F) No. 130 of 2017(O&M)

Date of Decision: 11.12.2017

Kamal Preet Sharma

..... Petitioner

Versus

Sonam Sharma and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vivek Goel, Advocate
for the petitioner.

LISA GILL, J(Oral).

This revision petition has been filed challenging order dated 23.05.2016, passed by the learned District Judge (Family Court), Karnal, whereby the petitioner has been directed to pay a sum of ₹5000/- per month to the respondent-wife and the minor alongwith litigation expenses to the tune of ₹5500/-.

Respondents had filed a petition under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking maintenance from the petitioner. It is mentioned that marriage of respondent no.2 and the petitioner was solemnized on 13.06.2014. They belonged to different castes and marriage took place as per their own wishes though thereafter arranged by their parents. A simply ceremony was performed. Two months after the marriage *Istri Dhan* and dowry articles were however were given by the wife's parents. It is alleged that soon after the marriage, petitioner and his family members started ill-treating the respondent-wife on account of bringing insufficient dowry. Respondent-wife was thrown out of her matrimonial home on 19.04.2015. A Panchayat was convened on 26.04.2015. It is alleged that the husband and his family members admitted their guilt and assured that they would rehabilitate the respondent-wife with

love and affection. A daughter was born out of this wedlock on 19.06.2015. After the birth of a daughter, they again started harassing the respondent-wife and even demanded a motorcycle. Respondent-wife alongwith the minor daughter were thrown out of the matrimonial home on 25.09.2015, yet again. It is alleged that the respondent-wife and the child are now being maintained by the respondent-wife's parents. Petitioner is stated to be a sales executive in Hyundai Showroom at Moga earning a sum of ₹15,000/- per month besides other incentives thereby earning total sum of ₹30,000/- per month. Therefore, ₹15,000/- per month as maintenance besides litigation expenses of ₹25,000/- were claimed.

It is to be noted that the petitioner appeared before the learned trial Court on notice, but failed to file any reply neither did he appear thereafter before the learned trial Court. He was proceeded against *ex parte* on 30.03.2016. *Ex parte* evidence was led by the respondent-wife.

Learned trial Court held that claim of the respondent-wife that respondent is working as a sales executive in Hyundai Showroom earning a salary of ₹15,000/- per month besides other incentives, thereby, earning a total sum of ₹30,000/- per month, is not supported by any documentary evidence. In the absence of such proof of earnings of the petitioner, he was treated at par with a daily wage worker earning ₹8000/- per month. Accordingly, a sum of ₹5000/- per month along with litigation expenses to the tune of ₹5500/- was directed to be paid as maintenance.

The present revision petition is barred by limitation as there is a delay of 214 days in filing of this revision petition.

Learned counsel for the petitioner argues that the petitioner was not aware that he was proceeded against *ex parte* and neither was he aware about the passing of the impugned order. It is strenuously urged that due to

such ignorance delay in filing of this petition has occurred. It is further submitted that the petitioner is a mere sales consultant with Godawri Motors Pvt. Ltd. earning a meagre salary of ₹6500/- per month. Reference is made to a salary certificate, Annexure P-1, issued by Godawri Motors Pvt. Ltd., Moga. Therefore, maintenance at the rate of ₹5000/- per month has been wrongly assessed. It is prayed that delay in filing this petition be condoned and the impugned order dated 23.05.2016 be set aside.

Heard learned counsel for the petitioner at length.

Arguments addressed on behalf of the petitioner clearly lack bona fides. There is no dispute that the petitioner appeared before the learned trial Court and was duly represented by his counsel. However, no reply was filed and the petitioner chose not to associate with the proceedings thereafter and he was proceeded against *ex parte* on 30.03.2016. The said order dated 30.03.2016 was never challenged by the petitioner. Learned counsel for the petitioner is unable to furnish a copy of order dated 30.03.2016 before this Court. The final order was ultimately passed on 23.05.2016.

It is to be noted that the petitioner duly identified by learned counsel for the petitioner is present in Court today. A specific query was put to the petitioner whether is ready and willing to deposit the arrears of maintenance or at least 75% thereof. However, the petitioner has flatly refused to deposit the arrears of maintenance/part thereof. It is not in dispute that the petitioner-husband deliberately chose not to associate with the proceedings before the learned trial Court. Neither has the petitioner paid any part of the maintenance thereby seeking to condemn his wife and child to run from pillar to post seeking maintenance.

Learned counsel is unable to point out any ground or mitigating

CRR(F). No. 130 of 2017(O&M) 4

circumstance to condone the delay of 214 days in filing of this revision petition.

Accordingly, this petition is dismissed being barred by limitation.

11.12.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No