

Criminal Misc. No. M- 17646 of 2018 (O&M)

Date of decision : May 09, 2018

Rahul Verma

.....Petitioner

Versus

Priya and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Vaibhav Narang, Advocate
for the petitioner.

LISA GILL, J.**CRM-16763-2018**

Application is for placing on record a copy of notice dated 03.04.2018 and certificate attached as Annexures A/1 and A/2. The same are taken on record subject to just exceptions.

Application is disposed of.

CRM-M- 17646-2018 (O&M)

The petitioner is aggrieved of order dated 05.04.2018 (Annexure P-3) vide which defence of the petitioner was struck off.

Keeping in view the facts and circumstances of the case, nature of relief claimed, this petition is disposed of without issuing notice to the respondents as the said course shall cause further delay in the proceedings as well as lead to unnecessary expenditure for the respondents.

Brief facts necessary for adjudication of the case are that a petition under Section 125 Cr.P.C. was filed by the respondents seeking maintenance from the present petitioner (respondent in petition under Section 125 Cr.P.C.). The petitioner's wife averred that she was subjected to ill-treatment and harassment in the matrimonial home and was ultimately turned out by the present petitioner alongwith their minor daughter, who

of a mobile repair shop and is engaged in the business of electronic goods. Maintenance at the rate of ₹50,000/- has been claimed.

Petitioner was earlier proceeded against exparte in the said proceedings. The said order was, however, set aside by the learned trial Court on 23.03.2018 (Annexure P-2) subject to payment of ₹2000/- as costs. However, on 05.04.2018, it is recorded by the learned trial Court that the present petitioner did not appear, neither was cost paid. Written statement was also not filed, therefore, his defence was struck off vide the impugned order.

Aggrieved therefrom, this petition has been filed.

Learned counsel for the petitioner argues that the petitioner was informed by his counsel that there was a call by the District Bar Association, Jalandhar for abstaining from work from 04.04.2018 to 06.04.2018. Election to District Bar Association, Jalandhar was also to be held. Reference is made to notice dated 03.04.2018 issued by the District Bar Association, Jalandhar (Annexure A1). Due to this reason, the petitioner did not appear on 05.04.2018 as he was under a bona fide belief that as informed by his counsel, he need not appear on the said date and the matter would be adjourned. The petitioner, it is submitted, undertakes to file the written statement within one week from today and he may be set to appropriate terms as well. He further undertakes not to delay the proceedings in any manner. However, in case, this petition is not allowed, manifest injustice would cause to the petitioner as he would be unable to contest the matter.

Heard, learned counsel for the petitioner. As per notice dated 03.04.2018 issued by the District Bar Association, all members of the

association were to abstain from work from 04.04.2018 to 06.04.2018 on account of security lapses and election of the District Bar Association. The petitioner undertakes to file the written statement within one week. Needless to say serious prejudice would undoubtedly be caused to the petitioner, in case, he is not able to lead his defence.

Keeping in view the facts and circumstances of the case, it is considered just and expedient to allow this petition. Consequently, order dated 05.04.2018 is set aside subject to the petitioner filing the written statement within ten days from today alongwith a sum of ₹25,000/- as costs, to be paid to the respondent – wife. It is made clear that, in case, cost is not deposited or the written statement is not filed within ten days from today, order dated 05.04.2018 shall become operative.

May 09, 2018
rts

(Lisa Gill)
Judge

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