

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

Crl. Misc. M 27430 of 2018 (O&M)
Date of decision: 5.7.2018

Krishan

...Petitioner

Versus

Vighnesh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. SK Hooda, Advocate,
for the petitioner.

JAISHREE THAKUR, J. (Oral)

This is the petition that has been filed under Section 482 of the Code of Criminal Procedure for quashing of the impugned order dated 11.5.2018 passed by the Principal Judge, Family Court, Rohtak, by which the defence of the petitioner herein has been struck off on account of lapse of 90 days.

Learned counsel for the petitioner herein contends that the notice on the application under Section 125 of the Code of Criminal Procedure was issued to the petitioner for 9.2.2018 and on receipt of the same, appearance was caused on the same date itself. The matter was adjourned for 15.3.2018 on which date the counsel engaged by the petitioner sought time for filing reply and the matter was again adjourned to 16.4.2018 for filing the reply to the application as well as to the application seeking interim relief. Thereafter, another adjournment was sought which was

allowed and the case was to come up on 10.5.2018. Even though reply was ready but the same could not be filed on the same day for want of legible annexures to be annexed with the reply in support of the averments made therein and as such, the petitioner herein made another request for filling the reply and the matter was posted for the very next date i.e. 11.5.2018. It is contended that the petitioner at that point of time inadvertently noted the date as 6.6.2018 as the date for filing the reply.

Learned counsel for the petitioner submits that in fact, now the case is listed for hearing on 10.7.2017 and no prejudice would be caused to the complainant/respondent herein in case, the petitioner is given one last opportunity to file the reply on the same date.

I have heard learned counsel for the petitioner and perused the record of the case.

A perusal of the paper book would reflect that non-filing of the reply does appear to be deliberate. In case the impugned order is not set aside, the petitioner herein would be caused great prejudice, since the matter ought to be decided on merit. On the other hand, the respondent herein would be caused no great prejudice as the matter is still at the initial stage and is now fixed for 10.7.2018. Therefore, without issuing notice to the respondent-herein, this petition is being disposed of in limini. This is being done so as issuing notice would delay the proceedings further and the respondents can be compensated in terms of payment of costs, as the costs are panacea for all ills.

Resultantly, this petition is allowed, impugned order is set aside

and the petitioner herein is given one last opportunity to file the reply, subject to the payment of ₹3,000/-, to be paid to the complainant/respondent. Let the reply be filed on 10.7.2018, the date fixed before the court below.

5.7.2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No