

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-36020 of 2018
Date of Decision: 29.8.2018**

Bhuvnesh Kumar

.....Petitioner

Versus

Swaran Lata

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Karan Jindal, Advocate
for the petitioner.

ANITA CHAUDHRY, J

The petitioner assails the orders dated 1.8.2018 (Annexure P-2) and 31.5.2018 (Annexure P-1).

Some facts are necessary to be given. A petition under Domestic Violence Act was filed. An order for payment of interim maintenance was passed on 23.12.2015. The trial Court gave opportunity to the respondent (husband) to lead his evidence and the case was adjourned for almost a year but he failed to lead any evidence nor paid any interim maintenance and his evidence was closed on 31.5.2018.

Aggrieved by that order, revision petition was filed. The revisional Court allowed one opportunity to the petitioner to lead evidence at his own responsibility and a condition was imposed that he would also deposit interim maintenance within a month.

The petitioner is aggrieved with the finding vide which

directions have been given to him to clear the arrears.

On the last date of hearing, it had been stated that the petitioner does not have the capacity. The counsel was asked to take instructions if he could pay the amount in a staggered manner.

Counsel for the petitioner contends that the petitioner does not have the capacity to pay any amount. The counsel also refers to Annexure P-4 and states that the wife had received all her dowry articles and nothing was due and there was a *biradari* divorce and the petitioner could not lead evidence as he had met with an accident in April 2018.

The revisional Court had noted the dates for which the case had been adjourned from time to time. It had also taken into account the OPD treatment which was for a month i.e. from 23.4.2018 to 29.5.2018. Since the evidence was closed in May 2018, one opportunity was afforded to the petitioner and directions were also given to him to clear the arrears and he had not paid any amount.

The petitioner's prayer for seeking opportunity of leading evidence had been allowed by the revisional Court. The petitioner had not paid any amount towards interim maintenance. The order of revisional Court cannot be faulted when it made the order conditional. The petitioner had violated the order of the trial Court. Sufficient opportunity had been granted to the petitioner to lead evidence and also to pay the amount but the petitioner was adamant and did not pay a penny. The petitioner had sustained a fracture in April 2018. He was able bodied and had a moral as well as legal responsibility to pay maintenance ordered by the Court. As he has refused to pay any amount and expressed his inability even here,

the petitioner cannot be given any further time nor should the order be modified.

The petition is dismissed in *limine*.

(ANITA CHAUDHRY)
JUDGE

August 29, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No