

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 430 of 2016 (O&M)
Date of decision : November 13, 2018

Baljinder Singh

....Petitioner

versus

Jyoti Rani

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Harpinder Jalal, Advocate, for the petitioner
Mr. Madhur Panwar, Advocate for
Ms. Supriya Garg, Advocate, for the respondent

Fateh Deep Singh, J. (Oral)

The petitioner-husband Baljinder Singh through this invocation against his wife-respondent Jyoti Rani has sought to challenge order dated 30.9.3015 of the court of learned Additional Sessions Judge, Sirsa whereby the appeal preferred by the husband against an order dated 10.12.2012 by the court of learned Sub Divisional Judicial Magistrate, Dabwali in a petition under Section 125 of the Code of Criminal Procedure allowing monthly allowance at the rate of Rs 2300/- per month to the petitioner was challenged.

However, by the impugned findings the court of learned Additional Sessions Judge, Sirsa through impugned orders dated 30.9.2015 had declined to condone the delay that has occasioned in filing the appeal and consequently by the impugned orders dismissed the appeal being barred by limitation.

Heard Mr. Harpinder Jalal, Advocate, for the petitioner and Mr. Madhur Panwar, Advocate for Ms. Supriya Garg, Advocate, for the respondent and perused the records.

The parties were well aware of the pendency of the application under Section 125 Cr.P.C. However, the husband Baljinder Singh inspite of due service of the process of the court initially appeared and filed written statement admitting the factum of marriage and the matrimonial dispute between the couple but subsequently did not put in appearance and was proceeded against exparte on 7.10.2012. As has been argued before this Court by the two sides has filed the instant appeal against that order on 12.6.2015 after more than two years and eight months. Learned counsel for the petitioner could not convince this Court what sufficient explanation is forth coming from the side of the petitioner-husband of this intentional act of keeping away from the court after having appeared and filed written reply rather smacks of a sinister design to thwart the desolate wife to claim maintenance. It is well settled proposition of

law that delay if any cannot be condoned merely at the asking of the party. The same has to be explained to the satisfaction of the Court bonafidely for reasons which do not impinge conscience of the Court, the same can be certainly condoned and not by such casual and non-serious approach of a litigant. Section 3 of the Limitation Act bars filing of such a recourse even if the otherside does not takes up plea of bar of limitation and it is the sole discretion of the court. The court below has rightly drawn the conclusion that there is no sufficient cause or explanation coming from the then appellant for explaining the reasons of delay in filing the same. It is not a small period of delay but much wide and even the prayer by the husband that he came to know of the impugned order only on 6.5.2015 rather to the mind of this Court is an after thought false pretence to get over this hump. His conduct qua this aspect needs to be suspected when he has already put in appearance and filed written reply, he had the requisite knowledge of the pendency of the proceedings and his studded silence over such a period of time till the passing of the ex-parte orders on 17.10.2012. It bars him to any sympathy and leniency of the court. The counsel for the petitioner could not convince or controvert the arguments of Mr. Madhur Panwar, counsel for the respondent.

In the light of what has been detailed and discussed

above, there is no merit in the present revision petition. The same being hopelessly without any merits, stands dismissed.

November 13, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No