

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

CRR(F)-200-2018(O&M)
Date of decision:-10.7.2018

Rajesh Vashisht

...Petitioner

Versus

Smt.Sita Devi and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rajeev Dev Sharma, Advocate
for the petitioner.

H.S. MADAAN, J.

Applicant Smt.Sita Devi (herein - respondent No.1) , aged about 27 years – wife and Shivangi, aged about 3 ½ years, minor daughter (through mother – respondent No.1) had filed an application under Section 125 Cr.P.C. contending that applicant Sita Devi did not have any source of income and she was unable to maintain herself as well as her minor daughter; that the respondent – Rajesh Vashisht (herein – petitioner) had been harassing and maltreating the applicant No.1 raising demands of more dowry and on her failure to meet the demands, she was beaten up and turned out of the matrimonial home; that efforts for

rehabilitation in the matrimonial home along with the minor daughter did not prove successful and she along with her minor daughter are residing separately from the respondent; that the applicant No.1 is 10+2 and ETT pass and she does not have any employment, whereas respondent is working as an actor, director and writer in serials and his earning is more than Rs.2 lakhs per month; that he has neglected and refused to maintain the applicants despite having adequate means.

On notice, the respondent appeared and filed reply contesting the application stating that the marriage between him and applicant No.1 has been dissolved by a decree of divorce by mutual consent on 24.7.2008; that the applicant No.1 had intentionally and deliberately left the matrimonial home along with applicant No.2 despite the fact that respondent had been treating both of them with love and affection. According to him, he is not keeping good health and is unemployed for last two years. He prayed for dismissal of the application.

After trial, the application was accepted and applicant No.1 was awarded a sum of Rs.5,000/- per month, whereas applicant No.2 was awarded a sum of Rs.3,500/- per month from the date of filing of application till 30.6.2017 and Rs.6,000/- and Rs.4,000/- per month, respectively w.e.f. 1.7.2017. This order has left the respondent aggrieved and he has filed the present revision petition.

I have heard learned counsel for the petitioner besides going through the record.

The revision petition has been filed belatedly by 120 days.

An application under Section 5 of the Limitation Act for condonation of

such delay in filing the revision petition has been filed, in which it has been contended that on account of his ill health and requiring time to arrange finances, he could not file the revision petition within time, therefore, the delay of 120 days took place in filing the present petition.

However, I am not convinced by the contentions. No medical document has been attached to show that the petitioner – respondent was so sick that he was unable to move out for a long time during the relevant period. No cogent and convincing reason for condonation of delay has been mentioned. Therefore, I do not find any merit in the application under Section 5 of the Limitation Act for condonation of delay and the same stands dismissed.

The revision petition being time barred is also liable to be dismissed. On merits also, the petitioner revisionist has no case. The trial Court by a well reasoned order has accepted the application granting maintenance to the applicants as mentioned above. The trial Court has noticed that respondent is an actor, director, producer of serial *Dhanika Ke Thana* and in his cross examination he had admitted that he worked as an actor in Punjabi Movie *Kabaddi*. The names of several other serial like *Dhaniya Ka Thana*, *Kabaddi* (once again), *Gul aur Bulbul* (J&K Local serial), *Jyoti* (Serial Star Utsav), *Hawayein* (Hindi serial), *Kauya Anjali*, *Chakk de Phate* (Punjabi movie) were there stating that the respondent was earning Rs.2 lakhs per month. It being so, the maintenance awarded is quite reasonable considering the financial position of the respondent and the fact that the applicants are entitled to retain the same life style as that of respondent. The trial Magistrate considering all the facts and

circumstances, the income of the respondent, the rise in price of essential commodities had awarded Rs.5,000/- and Rs.3,500/-, respectively w.e.f. 29.7.2015. This amount can certainly be not said to be on higher side keeping in view the avocation and probable income of the respondent/petitioner.

Therefore, the revision petition is dismissed being time barred as well as on merits also.

10.7.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No