

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

CRR(F)-247-2018 (O&M)
Date of Decision: May 17, 2018

Sharuti Ratan

...Petitioner

Versus

Anita @ Mansi and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vishal Gupta, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. The instant criminal revision has been filed seeking to challenge the order dated 12.04.2018 passed by Principal Judge, Family Court, Rohtak whereby, the evidence of the petitioner-respondent has been closed in proceedings that were initiated under Section 125 of Code of Criminal Procedure (for short 'Cr.P.C.') for grant of maintenance.

2. Undisputedly, respondents-applicants namely Anita @ Mansi-wife and Anirush-minor filed an application under Section 125 Cr.P.C. stating therein that a marriage had been solemnized between petitioner and respondent No.1 herein, out of which wedlock, a minor child was born. It was also alleged that on account of matrimonial dispute, she was thrown out of her matrimonial home. Since, she could not sustain herself and had been neglected, she filed an application claiming maintenance under Section 125

Cr.P.C. Reply to the said petition was filed and thereafter, interim maintenance had been assessed @ Rs.9000/- per month to the respondent No.1-wife and @ Rs.5000/- per month to respondent No.2-minor and the same was made payable from the date of filing of the application. The respondents-applicants led their evidence, which was closed on 14.02.2018 and the matter was listed for 05.03.2018, on which date no evidence of the petitioner-respondent was available and it was adjourned to 21.03.2018. On 21.03.2018, a request for adjournment was made for leading evidence and the request was accepted and the case was adjourned to 12.04.2018 for the petitioner-respondent to lead evidence, on which date the impugned order came to be passed.

3. Learned counsel appearing on behalf of the petitioner herein contends that on account of ill health of his father, the petitioner was not able to appear before the trial court on the date fixed and prays for an accommodation by setting aside the said order. It is contended that the next date listed before the Family Court, Rohtak is 29.05.2018, on which date he will lead his entire evidence, at first instance and thereafter, the matter can be listed for final arguments.

4. Notice of motion.

5. At this stage, Mr. Kartar Singh Malik-I, Advocate puts in appearance on behalf of the respondents and files the memo of appearance, which is taken on record. Learned counsel appearing on behalf of the respondents opposes the request as made by learned counsel for the petitioner, while submitting that adequate opportunities had been given to the petitioner to lead his evidence.

6. I have heard learned counsel for the parties and have also perused the orders, as reflected the criminal revision.

7. Admittedly, proceedings are pending between the parties under Section 125 Cr.P.C., which have been contested by the petitioner herein. He has already filed his reply to the said petition and is also paying interim maintenance thereunder. A perusal of the pleadings would reflect that evidence of the respondents-applicant had been closed only on 14.02.2018 and the petitioner herein had been given opportunities to lead evidence on 05.03.2018 as well as subsequently on 21.03.2018 and 12.04.2018 and on the third date itself i.e. 12.04.2018, his evidence stood closed. Since the matter is now pending for final arguments on 29.05.2018 before the trial court and the petitioner herein undertakes to lead his entire evidence on the date so fixed, this court deems it appropriate to grant one final opportunity to the petitioner to lead his evidence on the date so fixed. In such a situation, no prejudice is going to be caused to the complainant-respondents except some delay, for which they can be compensated by imposing costs upon the petitioner herein. Costs are a panacea of all ills. Moreover, it is a settled principle that substantial justice should be done between the parties and in the instant case, the petitioner should be given one last opportunity.

8. In view of the above, the petitioner herein is permitted to lead his entire evidence on 29.05.2018 i.e. the date already fixed before the trial court and the impugned order dated 12.04.2018 is hereby set aside, subject to payment of Rs.10,000/- as costs to the respondents-applicant. It is made clear that payment of costs to the respondents-applicants would be pre-requisite before leading evidence by the petitioner herein. It is further made

clear that the petitioner herein would lead his entire evidence on 29.05.2018 at his own responsibility and no further opportunity would be granted by the trial court for this purpose. By chance, if the trial court is on leave on 29.05.2018, it can grant this single opportunity to the petitioner on any other date convenient to it, subject to the same conditions, as reflected above. Needless to say, in case, the petitioner herein would not lead any evidence on 29.05.2018 i.e. the date already fixed before the trial court, the matter be decided on merits.

9. The petition in hand stands allowed in the aforesaid terms.

May 17, 2018

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No