

\$~23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON : MARCH 06, 2018

+ **CRL.REV.P. 188/2018 & Crl.M.A.Nos.4200-4201/2018**

HASNAIN AZIM

..... Petitioner

Through : Mr.Shekhar Gupta, Advocate.

versus

AFROZ ABEDIN & ORS

..... Respondents

Through : None.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present Revision petition has been preferred by the petitioner to challenge the legality and correctness of an order dated 30.01.2018 of learned Additional Sessions Judge in Crl.A.No.388/2017 whereby the orders dated 06.07.2017 and 13.09.2017 of learned Metropolitan Magistrate were upheld.

2. I have heard the learned counsel for the petitioner and have examined the file. Respondent No.1 had filed a petition under Section 12 of the Protection of Women from Domestic Violence Act. The petitioner along with his counsel put appearance in the said proceedings before the Trial court on 27.09.2016; it was adjourned to 17.11.2016. The matter was referred to Mediation; however it did not succeed. On

07.03.2017, the petitioner was directed to file written statement and income affidavit within fifteen days. The petitioner failed to do so. On 25.04.2017, it was informed that the matter was being settled with the respondent; it was disputed by the complainant. The Trial Court, however, granted another opportunity to the petitioner to file written statement and income of affidavit subject to costs of ₹5,000/-. Again on the next date i.e.23.05.2017, the petitioner failed to place on record the written statement alleging that due to some technical default in the computer, it could not be prepared. The trial court passed an interim order directing the petitioner to pay ₹7,000/- p.m. to respondent No.1 as maintenance till the disposal of the interim application. The petitioner was directed to file written statement and income affidavit within two days. The petitioner undisputedly did not comply with the said order and on the next date of hearing i.e.06.07.2017, the trial court was left with no alternative except to close the right of the petitioner to file written statement. It is also not in dispute that the petitioner did not put appearance before the trial court and was proceeded ex-parte. It is on record that the statement of the complainant has since been recorded and she has completed her evidence. The matter is now fixed for final arguments on 06.03.2018. Despite the dismissal of the appeal vide order dated 30.01.2018 by the appellate court, the petitioner did not prefer to file the instant Revision petition promptly and it has been filed a day before the final arguments have been ordered to be heard by the court below.

3. Perusal of the record reveals that despite various opportunities to file written statement, he failed to comply with the orders. Imposition

of costs ₹5,000/- and grant of interim maintenance @ ₹7,000/- p.m. had no impact on the petitioner to file written statement. The trial court and appellate court have given detailed findings as to why the right to file written statement was rightly closed by the courts below. These findings deserve no intervention.

4. Since the petitioner was at fault and despite several opportunities, he did not file written statement; the courts below committed no error to close the right of the petitioner to file written statement as apparently the motive of the petitioner was to delay the proceedings.

5. The petition being unmerited is dismissed.

6. All pending application(s) also stand disposed of.

MARCH 06, 2018/sa

**S.P.GARG
(JUDGE)**

भारतमेव जयते