

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR(F) No.38 of 2019 (O&M)

Date of Decision: 24.01.2019

Raj Kumar Gulati

...Petitioner(s)

Versus

Smt. Usha & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Abhimanyu Singh, Advocate
for the petitioner.

HARI PAL VERMA, J.

CRM-2627-2019:

Prayer in this application filed under Section 5 of the Limitation Act read with Section 482 CrPC is for condonation of delay of 8 days in filing the present revision petition.

For the reasons mentioned in the application, delay of 8 days in filing the present revision petition is condoned.

CRR(F) No.38 of 2019:

The petitioner-husband has filed the present revision petition against judgment dated 10.10.2018 passed by learned Principal District Judge, Family Court, Bhiwani whereby on an petition filed by the respondents under Section 127 CrPC, the Family Court has granted maintenance to respondent no.1-wife @ of Rs.5,000/- per month and

Rs.4,000/- per month to respondent no.2-minor daughter from the date of filing of the petition.

Briefly stated, the marriage between petitioner and respondent no.1 was solemnised on 02.02.1992 and out of this wedlock, two children were born, including respondent no.2, being the minor daughter. The family of the petitioner had shown their displeasure to respondent no.1 for not bringing sufficient dowry as expected. Therefore, they started taunting and harassing respondent no.1. There was consistent demand of Rs.50,000/- in cash from the respondent and for this reason, she was harassed and humiliated and was not given food many times. Since respondent no.1 was tortured at the hands of the petitioner and his family members, she had no other option but to go to her parental home along with her children, whereafter she filed a petition under Section 12 of the Protection of Women from Domestic Violence Act. Though respondent no.1 was taken back by the petitioner to her matrimonial home, but after a gap of few days, they again started beating her on one pretext or the other. Ultimately, on 10.08.2011, she was ousted from the matrimonial home along with her daughters after giving beatings. Accordingly, proceedings under Section 125 CrPC were initiated, whereby vide judgment dated 24.09.2013, learned District Judge (Family Court), Bhiwani allowed the application filed by the respondents under Section 125 CrPC and granted maintenance of Rs.3,000/- and Rs.2,000/- per month to respondents no.1 and 2 respectively vide judgment dated 24.09.2013.

Thereafter, the respondents had filed a petition under Section 127 CrPC seeking enhancement of the maintenance allowance on the

ground that after fixing the maintenance vide order dated 24.09.2013, the prices of the commodities have increased manifold and since the price index has gone up, it is not possible for the respondents to maintain themselves with such a petty amount. In the said proceedings, though initially the petitioner appeared on 08.08.2018 and the case was adjourned to 30.08.2018 for filing *vakalatnama* and reply on his behalf, but on 30.08.2018, neither the petitioner appeared himself nor through his counsel. Accordingly, he was proceeded against *ex parte*.

Learned Family Court vide judgment dated 10.10.2018 enhanced the amount of maintenance awarded vide judgment dated 24.09.2013, to Rs.5,000/- and Rs.4,000/- per month to respondents no.1 and 2 respectively from the date of filing of that petition. It is the aforesaid judgment dated 10.10.2018 which has been made the subject matter of challenge before this Court by way of revision petition.

Learned counsel for the petitioner has argued that the petitioner is confined to bed on account of various ailments. His movement is completely restricted. There was no material before the Family Court to enhance the amount of compensation awarded vide order dated 24.09.2013. There is no cogent and reliable evidence in the form of documents or statement to substantiate the fact that income of the petitioner has increased. It is merely on the basis of bald statement of the respondents, the Family Court has accepted the plea of respondent and enhanced the maintenance. Respondent no.1 has already obtained divorce from the petitioner and is now harassing the petitioner without there being any claim. The petitioner could not appear before the Family Court at

Bhiwani because he was not in a position to travel on account of his ailment. In fact he has not been served properly in the case.

I have heard learned counsel for the petitioner.

The petitioner is stated to be a property dealer, doing his business at Delhi. Nothing has been brought on record to substantiate the fact that the petitioner is confined to bed on account of his ailments. Apart from this, the petitioner has put in appearance before the Family Court on 08.08.2018 and thereafter, the case was adjourned to 30.08.2018 to file reply and *vakalatnama* on his behalf, but neither the petitioner nor his counsel had appeared before the Family Court. Therefore, the Family Court had no other option but to proceed *ex parte* against the petitioner. Though the petitioner has opted not to join proceedings before the Family Court after appearing on the first hearing, but the moment judgment dated 10.10.2018 enhancing maintenance to the respondent was passed, he has come forward to challenge the same. Even otherwise, the maintenance awarded by the Family Court vide judgment dated 10.10.2018 is not on the higher side. Moreover, nothing has come on record to substantiate the fact that the petitioner has challenged the order dated 24.09.2013, whereby the Family Court had awarded Rs.3,000/- and Rs.2,000/- to respondents no.1 and 2 respectively. It is not only due to increase in the prices of the commodities manifolds, rather respondent no.2, the daughter of the petitioner, has reached at an age where her expenses are bound to increase.

The petitioner cannot take advantage of his own wrongs. Having put in appearance before the Family Court, he was required to associate himself in the proceedings. But he did not appear despite service

in the case. It is after passing the aforesaid judgment dated 10.10.2018 by the Family Court, he has approached this Court, which reflects the bent mind of the petitioner.

Therefore, this Court finds that there is no illegality in the impugned judgment passed by the Family Court.

Accordingly, the present revision petition is dismissed.

January 24, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No