

109.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-182-2019 (O&M)

Date of decision:27.03.2019.

SANDEEP SHARMA

... Petitioner

Versus

MONIKA SHARMA AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Gaurav Tyagi, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

CRM-10487-2019

Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 146 days in filing the present revision petition.

For the reasons stated in the application i.e. the petitioner remained in custody for 2 months and no body was there to follow his case, same is allowed and the delay of 146 days in filing the present revision petition is condoned.

CRR(F)-182-2019

The petitioner has filed the present revision petition against the order dated 20.07.2018 passed by the learned Family Court, Gurugram, whereby on a petition filed by the respondents under Section 125 Cr.P.C., the learned Family Court has directed the petitioner to pay a sum of Rs.6,000/- per month to respondent No.1-wife, whereas another amount of

Rs.3,000/- per month each is required to be paid to respondents No.2 and 3, who are the minor daughter and son of the petitioner.

Counsel for the petitioner has argued that respondent has not approached the Family Court with clean hands. She has concealed the material facts. The financial condition of the petitioner does not permit him to pay such a huge amount of maintenance. The court below has ignored the fact that the petitioner-husband has every intention to keep his wife and children with him and to maintain them as per his capability. Moreover in order to show his bona fide, petitioner has approached the Family Court, Meerut and filed a petition under Section 9 of Hindu Marriage Act, but same has been ignored. The petitioner is a middle pass person, whereas the respondent No.1 is a highly qualified person and has got independent source of income, but these facts have been ignored. He has argued that respondent No.2-Tanvi Sharma, minor daughter, born out of their wedlock, is staying with the petitioner and, therefore, no amount of maintenance was required to be paid to the respondent on this count and this fact has been conveniently concealed by the respondent-wife.

I have heard learned counsel for the petitioner and perused the order dated 20.07.2018. For the purpose of fixing maintenance to wife, the Family Court has observed that the petitioner being a skilled electrician, must be earning between Rs.25,000/- to 30,000/- per month. Moreover, in para 11 of the judgment, there is a categorical finding that the petitioner has been appearing in person, but neither he filed any written statement in the case nor adduced any evidence to support his contention. He even did not move any application to cross-examine the respondent or PW2. Thus, the

in the absence of any evidence so adduced by the petitioner, the court has no option except to believe the testimony of the respondent. The argument of learned counsel for the petitioner that the respondent has not led any evidence that she is not able to maintain herself, cannot be accepted as the petitioner has not brought on record any evidence that she is earning. So far as the argument that the minor daughter is staying with the petitioner, the learned Family Court has dealt with this argument as none of the parties has specified any date from which the girl child is residing with the petitioner. Moreover the maintenance towards the girl child shall be payable to respondent No.1 so long as she (girl child) remained with her.

Accordingly, this Court does not find any illegality in the order whereby the learned Family Court has awarded maintenance to the respondent. Thus, no interference is warranted in the case.

Dismissed.

(HARI PAL VERMA)
JUDGE

27.03.2019

sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No