

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

132

CRM-M-24723-2019

Date of Decision:28.05.2019

Davinder Singh

.....Petitioner

Versus

Karamjit Kaur and another

.....Respondents

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

Present: Mr. K.K. Saini, Advocate,  
for the petitioner.

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HARI PAL VERMA, J.(Oral)

Briefly stated, the respondents have filed a petition under Section 125 Cr.P.C. seeking maintenance from the petitioner who is none else than the husband of respondent No.1-Karamjit Kaur. The marriage between the parties was solemnized on 07.12.2007 and a daughter Harshvir Kaur was born to them. The petitioner though had appeared in the case and filed reply to the application, wherein he admitted the relationship between the parties and the daughter born to them, but thereafter, he did not appear and was proceeded ex parte. Since the petitioner has not appeared in the proceedings and was proceeded ex parte, adverse inference was drawn against him.

Considering the statement and evidence led by respondent No.1-Karamjit Kaur, learned Judicial Magistrate 1<sup>st</sup> Class, Fatehgarh

Sahib, vide order dated 09.10.2012 had directed the petitioner to pay

maintenance @ Rs.2,500/- per month to each of the respondents from the date of application.

The order dated 09.10.2012 was challenged by the petitioner before learned Additional Sessions Judge, Fatehgarh Sahib by way of revision petition filed on 04.06.2018. The revision petition was accompanied with the application under Section 5 of the Limitation Act seeking condonation of delay of 2064 days in filing the revision petition.

Learned Additional Sessions Judge, Fatehgarh Sahib vide order dated 02.01.2019 (Annexure P-1) dismissed the revision petition filed by the petitioner with the following observations:-

*“I have heard the learned counsel for appellant/applicant as well as learned counsel for respondents and perused the record carefully. There is delay of 2064 days in filing of revision petition against impugned order. It is well settled principle of law that each and every day of delay has to be explained by the revisionist. However, persual of revision petition it is clear that there is no logical reasoning given by revisionist petitioner as to why there is such huge delay of 2064 days, which literally more than 5 years. The reasoning given by revisionist that he was under depression as his parents disinherited him from the property and was also from suffering kidney pain due to small calculus. The said reasoning given by revisionist is not justifiable as there is no medical record produced by him and moreover kidney calculus is not such problem which would take more than five years time to seek redressal his grievances. In the light of these circumstance, this Court is of considered view that appellant/applicant has failed to show any good cause to condone the delay, rather the approach of appellant/applicant was very casual and without any reasonable and sufficient grounds. Consequently, application moved by the appellant/applicant stands dismissed. File be consigned to the record room after due compliance.”*

It is in the aforesaid circumstances, the petitioner has preferred the present petition under Section 482 Cr.P.C. impugning the orders passed by both the Courts below.

Learned counsel for the petitioner has argued that the petitioner could not appear before the Judicial Magistrate 1<sup>st</sup> Class, Fatehgarh Sahib due to his illness and further due to paucity of funds. Accordingly, he was proceeded ex parte and maintenance was granted to the respondents. The respondent No1. has deserted the petitioner without any cogent reason and is living separately so as to harass the petitioner. It is well-settled law that if any lady/wife is living separately from her husband without any sufficient reason, she is not entitled for any maintenance. The petitioner has been sent behind the bars by the Executing Court for making the non-payment of maintenance and due to this reason, no one is giving job to him and he is jobless. The petitioner is suffering from many diseases and is unable to do any job due to presence of small calculus in his kidney.

Heard learned counsel for the petitioner.

Admittedly, the petitioner had the knowledge of the order dated 09.10.2012 (Annexure P-2) passed by learned Judicial Magistrate 1<sup>st</sup> Class, Fatehgarh Sahib, whereby the respondents were awarded maintenance @ Rs.2,500/- per month each. Despite having been served in the case, though once he has not put in appearance, he was proceeded ex parte. The said order was challenged by way of revision petition after a delay of 2064 days. Despite having the complete knowledge of the order dated 09.10.2012, the delay being inordinate and not supported by sufficient cause, so as to invoke Section 5 of the Limitation Act, this Court finds that prayer of the petitioner was rightly declined by the learned Additional Sessions Judge, Fatehgarh

Sahib.

No interference by this Court to quash the orders passed by  
learned Courts below is thus made out.

Dismissed.

May 28, 2019  
seema

(HARI PAL VERMA)  
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No