

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

Crl. Misc. M 24336 of 2018 (O&M)
Date of decision: 10.2.2020

Gurjit Singh

...Petitioner

Versus

Anuradha

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. H.S. Saggu, Advocate,
for the respondent.

JAISHREE THAKUR, J. (Oral)

1. This is a petition under Section 482 of the Code of Criminal Procedure for quashing of the impugned order dated 5.3.2018 passed by the Judicial Magistrate Ist Class, Dhuri, whereby the application filed by the petitioner—wife seeking maintenance has been restored to its original number.

2. In brief, the facts are that the respondent herein filed an application under Section 125 of the Code of Criminal Procedure (for short '**the Code**') seeking maintenance along with an application for interim maintenance. During the pendency of the proceedings before the court, the application for interim maintenance came to be dismissed by the Judicial Magistrate Ist Class, Dhuri on 31.3.2015, which was subsequently

challenged by the respondent by way of filing a revision before the Additional District Judge, which too was dismissed on 8.9.2015. Aggrieved against the dismissal of the interim application for maintenance, the petitioner preferred a Criminal Misc. M 8748 of 2016 in this Court, which was disposed of on 21.3.2017. In the meantime, the Judicial Magistrate Ist Class, Dhuri, dismissed in default the application filed under Section 125 of the Code by order dated 15.10.2015 due to non-appearance of the respondent as well as her counsel, which led to the respondent—wife to move an application for restoration of the case, which stood dismissed in default on 15.10.2015. The said application was allowed and the application filed under Section 125 of the Code was restored to its original number by order dated 9.4.2018. Aggrieved against the said order, the instant petition has been filed.

3. Learned counsel appearing on behalf of the petitioner, who is none other than the husband of the respondent, would contend that the Judicial Magistrate Ist Class has erred in restoring the application for maintenance, which stood dismissed in default, while ignoring the conduct of the respondent—wife. It is contended that the application filed for restoration is wholly silent as to when the respondent came to know about the order dated 15.10.2015, whereby her application stood dismissed in default.

4. Per contra, learned counsel appearing on behalf of the respondent—wife would submit that no interference is called for in the impugned order, which is a well reasoned order, whereby the application

under Section 125 of the Code stood restored.

5. I have heard learned counsel for the parties and perused the order dated 5.3.2018 which has been assailed in this petition.

6. Admittedly, the application was dismissed in default on 15.10.2015 and reason given for restoration of the same was that she had no knowledge about the dismissal of the application, while arguing that she was pursuing her remedy before the revisional court in the proceedings that had been initiated after dismissal of the application for interim maintenance under Section 125 of the Code. This Court cannot lose sight of the fact that Section 125 of the Code of Criminal Procedure is a social legislation, which was enacted as a measure to put an end to the agony, anguish, financial suffering of a woman who left her matrimonial home for no fault of hers and who does not have any sufficient means to support herself, so that some suitable arrangements can be made by the Court for her to sustain herself and also her children. These proceedings are in the form of summary in nature and the matter has to be decided on the basis of some averments/pleadings/documents supported by the parties. Therefore, even if the application for restoration does not carry the details as to when the respondent became aware of the dismissal of the main case filed under Section 125 of the Code, it is to be noted that the application for restoration was filed almost within two months of dismissal in default, which cannot be said to be an inordinate delay.

7. Keeping in mind the fact that Section 125 of the Code is a piece of social beneficial legislation, this Court feels that justice should not be

hampered merely on technicalities. The Judicial Magistrate Ist Class, while restoring the case to its original number has rightly come to the conclusion that interest of justice demands that the respondent should not suffer for any fault of her counsel, who failed to appear on behalf of the respondent on the date the case was fixed.

8. For the reasons afore-stated, this petition is dismissed.

10.2.2020
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No