

Criminal Revision No.426 of 2021
DECIDED ON: 6th APRIL, 2021

GULSHAN KUMAR

.....PETITIONER

VERSUS

POOJA RANI

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

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

AVNEESH JHINGAN, J

On dismissal of Criminal Appeal being time barred, the present revision petition is filed.

The relevant facts are that the petitioner and the respondent solemnized marriage on 03.03.2014. They were blessed with son on 08.12.2015. Marital relation ran into troubled waters. The petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for brevity 'the Act') was filed by the respondent-wife. The petitioner (husband) appeared on 14.07.2016 in proceedings under Section 12 of the Act. Thereafter, he absented from the Court proceedings. On 07.11.2017, the order of interim maintenance was passed after hearing both the parties. Thereafter, the petitioner chose not to appear and was proceeded *ex-parte*. The arguments were heard on 04.06.2018 and maintenance of Rs.18,000/- per month was granted to the wife and to the minor child.

It would be apposite to mention here that the Court, while

fixing maintenance relied upon the pleadings of petition filed under Section 25 of the Guardians and Wards Act, 1890 by the petitioner, mentioning that he was earning Rs.50,000/- per month.

The petitioner failed to pay the maintenance. The execution proceedings were filed, in which, the summons and theailable warrants were served upon the petitioner.

The petitioner preferred an appeal on 08.05.2019 against the judgment dated 04.06.2018 fixing maintenance. The appeal was accompanied by an application for condoning the delay of 334 days in filing the appeal.

The only ground taken for condonation was that the petitioner was not residing at the address mentioned in the petition and for this reason, he could not appear.

The Appellate Court noted the fact that the petitioner had put in appearances in the proceedings under Section 12 of the Act. He was aware of the interim maintenance order passed on 07.11.2017. Further that in the petition filed under Section 9 of the Hindu Marriage Act, 1955 by the petitioner, the same address was mentioned. Even in the execution proceedings for recovery of maintenance, the summons and theailable warrants were served upon the appellant on this very address. Finding no ground to condone the delay, the appeal was dismissed. Hence, the present revision petition.

Learned counsel for the petitioner argues that the delay occurred due to the communication gap between the petitioner and his

counsel.

From the perusal of the grounds of revision, it is forthcoming that not even a word has been mentioned therein explaining the delay in filing the appeal.

The ground that the petitioner was not residing at the address given in the petition was dealt in detail by the Appellate Court.

Now the contention raised that there was a communication gap of the petitioner with his counsel is a *bald* statement and not even mentioned in the grounds.

There is another angle, the petitioner was aware of the proceedings and had attended the same. The order of interim maintenance was passed after hearing both the parties. During the Court hearing, the counsel for the petitioner fairly submits that the petitioner has not paid any maintenance till date. Delaying tactics are visibly being adopted by the petitioner.

In absence of any plausible explanation for condonation of delay, no case is made out for interference in the revision petition and the same is accordingly dismissed.

6th APRIL, 2021

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**(AVNEESH JHINGAN)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>