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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52107-2021 (O&M)

Date of Decision: December 14, 2021

Gulshan Kumar

.....Petitioner

Versus

Pooja Rani

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Neeraj Kumar, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The petitioner has approached this Court by way of filing of this petition under Section 482 Cr.P.C. for setting aside the order, dated 12.02.2021, passed by the learned Additional Sessions Judge, Sonapat, in an appeal wherein he has affirmed the order dated 04.06.2018 passed by learned JMIC, Sonapat, by virtue of which the application filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the D.V.Act') was allowed.

As per the factual matrix of the case, respondent -Pooja Rani was married to the petitioner on 03.03.2014 at Village Shahjadpur, Sonapat. Out of the wedlock, a minor son, namely, Ranav Sharma was born on 08.12.2015. However, soon after the marriage, the matrimonial life of both the parties ran into rough weather and hence, the parties started living

separately. The respondent-wife is house-hold lady and earning nothing, who had the responsibility of a minor child also. She filed an application under Section 12 of the D.V.Act for the grant of maintenance to the tune of Rs.50,000/- per month. Learned Magistrate appreciated the facts and evidence produced by the respondent-wife whereas the petitioner-husband, who decided not to appear, was proceeded ex parte. As a result, the learned Magistrate allowed the petition and granted the maintenance of Rs.18,000/- per month from the date of filing of the petition to the respondent-wife and the minor child. Aggrieved by the same, the petitioner-husband filed an appeal after a delay of 334 days against the impugned order dated 04.06.2018 passed by the JMIC before the learned Additional Sessions Judge, Sonapat. Both the parties were heard by learned Additional Sessions Judge and finally the appeal filed by the petitioner was dismissed vide its order dated 12.02.2021. Aggrieved by both the orders passed by learned JMIC and the Appellate Court, the petitioner has filed the present petition.

Learned counsel for the petitioner contends that both the Courts below have failed to appreciate the facts and circumstances judiciously and thus have drawn a wrong conclusion. Besides this, he submits that income of the petitioner was also not rightly taken into consideration and hence conclusion drawn by both the Courts below is totally unsustainable in the eyes of law. He vehemently contends that the Court of learned JMIC took cognizance of the case without even seeking report from the Protection Officer. He has submitted that in view of the same, both the impugned orders deserve to be set aside.

I have heard learned counsel for the petitioner.

It is apparent from the record of the case that in the first round

of litigation, the petitioner approached this Court by way of filing of CRR-426-2021 wherein both the orders, which are impugned here, i.e. 04.06.2018 and 12.02.2021, were challenged by the petitioner. This Court duly appreciated the arguments raised by the counsel for the petitioner and dismissed the same vide order dated 06.04.2021.

In view of the dismissal of the revision petition filed by the petitioner, this Court finds that the present petition is not maintainable. Even on merits, it is apparent that the petitioner was proceeded ex parte by the learned Magistrate. Thereafter, he filed an appeal under Section 29 of the D.V.Act before the learned Additional Sessions Judge with a delay of 334 days. The appeal was also dismissed by the learned Additional Sessions Judge as there was no plausible explanation given by the petitioner for condoning such a huge delay. The petitioner further made an effort by filing CRR-426-2021 in this Court and the same was also dismissed, as mentioned above.

In the overall facts and circumstances, I find that the petitioner has no case, either on merits or on law. As a result, the petition being devoid of any merit is hereby dismissed.

December 14, 2021
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(RAJESH BHARDWAJ)
JUDGE

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

Yes/No
Yes/No