

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

(122)

CRM-M-12476-2022

Date of decision: 25.03.2022

Vinay Kumar

...Petitioner

Versus

Sukhwinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioner.

...

SUVIR SEHGAL, J.

Vide the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code"), the petitioner seeks setting aside of order dated 23.11.2021 (Annexure P-4), whereby the petitioner has been proceeded ex parte along with all subsequent orders.

Counsel for the petitioner submits that the respondent had filed an application dated under Section 125 of the Code, which was dismissed in default vide order dated 18.12.2017 and an application dated 26.03.2018 for restoration (Annexure P-1) was filed by her, wherein notice was issued to the petitioner, who initially appeared, but was proceeded ex parte vide impugned order dated 23.11.2021 (Annexure P-4) and without affording him with an opportunity to contest the application, it has been allowed vide order dated 04.01.2022 (Annexure P-7) and the main petition has been restored. Counsel for the petitioner contends that due to wrong noting of the date, the petitioner could not appear before the Trial Court on 23.11.2021 and when he appeared on 23.12.2021, the learned Presiding Officer was on leave and he was not told about the next date in the proceedings.

Heard counsel for the parties.

The instant petition is nothing, but an attempt to stall the maintenance proceedings instituted by the respondent way back in the year 2016. After the proceedings were dismissed for default in appearance, an application for restoration was filed by the respondent in the year 2018, which has been allowed in January, 2022. The argument of the counsel for the petitioner that there was a miscommunication does not cut any ice as it is not the case of the petitioner that the impugned order or the case status was not uploaded on the website of the Court. Even if his argument is accepted, there was no explanation as to why the petitioner did not approach the Trial Court after passing of the impugned order to get ex parte proceedings set aside. Even the present petition has been filed by him after two and a half months of the restoration of the main petition. The reason for the institution of the present petition, at this stage, is nothing, but an attempt to put the clock back and to create hurdles in the decision of the petition filed under Section 125 of the Code by the respondent.

Finding no merit in the petition, it is ordered to be dismissed.

Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case, which will be decided on the basis of evidence led before the Trial Court in the main petition.

(SUVIR SEHGAL)
JUDGE

25.03.2022
Pardeep

Whether speaking/ reasoned	Yes
Whether Reportable	Yes