

115 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-312-2022

Date of Decision: 28.04.2022

BHAGAT SINGH

... PETITIONER

VS.

PARAMJIT KAUR AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Vijiyesh Malhotra, Advocate, for the petitioner.

VIVEK PURI, J.(ORAL)

The petitioner has assailed the order dated 11.02.2022 passed by the Court of learned Additional Principal Judge, (Family Court), Camp Court at Naraingarh, vide which, the defence was struck off as the reply to the main petition and application for interim maintenance had not been filed despite last opportunity.

Learned counsel for the petitioner contends that on account of 3rd wave of Covid-19 Pandemic, the petitioner could not submit the reply and affidavit in view of the judgment of the Hon'ble Supreme Court in the case titled as Rajnesh vs. Neha and another. He seeks only one opportunity to do the needful.

The perusal of the copies of the orders passed by the Court below, annexed with the petition, indicates that the petitioner had put appearance in person in the Court on 24.09.2021 and, thereafter, on two dates of hearing, the case was not taken up as the learned Presiding Officer was availing casual leave. On 10.12.2021, the counsel for the petitioner had put appearance in the Court and the case was adjourned for 24.12.2021 and last opportunity was granted to both the parties to furnish the affidavit and the petitioner was also directed to file reply.

On 24.12.2021, another last opportunity was granted and the case was adjourned for 14.01.2022. On 14.01.2022, again last opportunity was granted to the petitioner and ultimately, the defence of the petitioner was struck off vide impugned order dated 11.02.2022.

A petition under Section 125 Cr.P.C. has been instituted by the respondent on account of matrimonial dispute with the petitioner. It is no doubt true that the reasonable opportunities have been granted to the petitioner to submit the reply and affidavit but at the same time, it has to be borne in mind that it shall be appropriate if an opportunity is granted to the petitioner to do the needful and the controversy is adjudicated on merits. For the lapse on the part of the petitioner, he can be burdened and the respondent can be compensated in terms of cost.

In these set of circumstances, the impugned order dated 11.02.2022 is set aside, subject to the condition that the petitioner shall pay a sum of Rs.5,000/- as cost to the respondent. The next date of hearing before the trial Court is stated to be 27.05.2022. It is directed that on the date fixed before the trial Court, the cost shall be paid and reply to the main petition as well as interim maintenance alongwith the affidavit shall be submitted by the petitioner. In the event, for any reason, the case is not taken up on that day, the needful may be done on the next effective date of hearing as per the convenience of the trial Court. However, it is made clear that only one effective opportunity shall be granted to the petitioner to pay the cost and submit the reply alongwith the affidavit.

Petition is disposed of.

28.04.2022

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(VIVEK PURI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No