

CRM-M-27310-2022

Date of decision: 08.07.2022

RAJ KUMAR

...PETITIONER

VERSUS

RITU KUMAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Jagjot Singh Lalli, Advocate
for the petitioner.

VIVEK PURI, J. (ORAL)

Petitioner is seeking to set aside the order dated 22.04.2022 passed by the Court of learned Additional Principal Judge, Family Court, Ludhiana, vide which, the defence has been struck off on account of non-payment of the cost and non-filing of the written statement.

Learned counsel for the petitioner contends that the respondent has instituted a petition under Section 125 Cr.P.C and in the said proceedings, the defence has been struck off on account of non-payment of cost and non-filing of the reply/written statement. The petitioner had put in appearance before the Court below on 22.01.2020 and had moved an application for rejection of the petition. The case remained pending for filing reply but subsequently, the learned trial Court directed the petitioner to file the written statement. Even, the case remained pending on account of restricted hearing of the Courts due to Covid-19 Pandemic. The next date of hearing is 14.07.2022. The written statement has been prepared and the same shall be submitted on the date fixed.

The 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/written statement but 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. It shall not be out of place to mention here that the adjournments were also granted on account of restricted hearing of the Courts due to Covid-19 Pandemic. For the lapse on the part of the petitioner, he can be burdened with cost. The next date of hearing in the trial Court is stated to be 14.07.2022 and the learned counsel for the petitioner undertakes that only one opportunity may be granted to the petitioner to submit the reply/written statement and further pay the cost of Rs. 500/- as already ordered by the Court below.

In these set of circumstances, the impugned order dated 22.04.2022 is set aside, subject to the condition that the petitioner shall pay a sum of Rs. 5,000/- as cost to the respondent in the form of demand draft in her name. It is clarified that the amount of Rs. 5,000/- is in addition to the cost of Rs.5,00/- as already imposed by the Court below. It is further directed that the petitioner shall get only one effective opportunity to file reply/written statement in the Court, tender the demand draft pertaining to the cost and also to pay the cost already imposed by the trial Court. In the event, learned Presiding Officer is not holding the Court on 14.07.2020, the same may be filed on the next effective date of hearing fixed in the matter.

In view of the aforesaid terms, the petition is disposed of.

08.07.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No