

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

CRM-M-33224-2022

Date of Decision: 29.7.2022

Onkar Singh

..... Petitioner

Versus

Lachhmi @ Gursharan Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. H.K. Brinda, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

The petitioner has approached this Court by way of filing the present petition impugning the order dated 13.5.2022 passed in Revision Petition No.299/2021 by the Court of learned Addl. Sessions Judge, Rupnagar, whereby, application of the petitioner for condonation of delay for filing for revision for setting aside the order dated 5.10.2019, was dismissed.

As per facts of the case, the petitioner was married with the respondent and thus, the relationship between them is an admitted fact. Due to the matrimonial discord, both of them started living separately and thus, respondent-wife filed a petition under Section 125 Cr.P.C. for grant of maintenance, which was decided by the learned SDJM, Sri Anandpur Sahib on 19.12.1997. The Court allowed the petition and the petitioner was directed to pay maintenance of Rs.500/- per month to the respondent-wife holding income of the petitioner as Rs.4,000/- per month at that time. This order was never assailed further and thus, attained finality. Thereafter, the respondent-wife filed an application under Section 127 Cr.P.C. for enhancing the maintenance of Rs.500/- per month granted to her. Learned

Sub Divisional Judicial Magistrate, Nangal, after hearing both the parties observed that the maintenance granted vide order dated 19.12.1997 is on the lower side and thus, in the prevailing facts and circumstance, the enhanced from Rs.500/- per month to Rs.5,000/- per month vide order dated 5.10.2019. The petitioner aggrieved by the same, filed revision petition before the learned Additional Sessions Judge, Rupnagar with a delay of 582 days. Learned Additional Sessions Judge appreciated the arguments raised by learned counsel for the petitioner for condoning the delay of 582 days and hearing the revision on merits, vide impugned order dated 13.5.2022 dismissed the same. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the view taken by the learned Court below in dismissing the application for condonation of delay and in not hearing the petition on merit is totally illegal and deserves to be set aside. He submits that the petitioner is 75 years of age and a heart patient and it is on account of the same, the delay of 582 days occurred. He submits that the petitioner is senior citizen and suffering from various ailments and besides this there was ample evidence that respondent-wife has agricultural land in her name and thus, has an independent source of income, but the learned Court below has failed to appreciate the same and thus, drawn a wrong conclusion in granting maintenance of Rs.5,000/- per month to the respondent-wife. He has submitted that the revisional Court should have condoned the delay of 582 days and should have heard the revision on merits.

Heard.

The relationship between the petitioner-husband and

respondent-wife are not in dispute. Admittedly, the maintenance of Rs.500/- per month was granted to the wife way back on 19.12.1997. Thereafter, she approached the Court by way of petition under Section 127 Cr.P.C. for alteration in the maintenance allowance. The learned Court taking into account the overall facts and circumstances of the case i.e. the age of the petitioner, income of both the petitioner and respondent and living conditions as on date, enhanced the same to Rs.5,000/- per month vide order dated 5.10.2019. This Court does not find any infirmity in the conclusion drawn by the learned SDJM, Nangal. The petitioner, thereafter, filed a revision petition with a delay of 582 days against the order dated 5.10.2019. The learned revisional Court has taken into consideration the cause of delay in filing the revision petition. As per the finding of revisional Court, delay in filing the revision was not 582 days, but it was more than 680 days. The only ground emphasized by the petitioner before the revisional Court as well as before this Court is on account of his old age. This Court does not find any force in the arguments advanced by learned counsel for the petitioner.

Looking into the merits of the case, the enhancement made by learned SDJM, Nangal was from Rs.500/- per month to Rs.5,000/- per month, which was after a period of about 22 years. The Court cannot shut its eyes to the prevailing circumstance 22 years ago and the living condition in this period which has enormously changed. Keeping in view the same, there is no infirmity whatsoever in enhancing the maintenance of Rs.500/- per month to Rs.5,000/- per month. The provisions of Section 125 Cr.P.C. are for preventing destitution and vagrancy. As per the law settled by Hon'ble Supreme Court in plethora of judgments, the husband is legally and morally

responsible to look after his wife. This Court does not find any merit in condoning the delay as well as hearing the petition on merits as the enhancement of maintenance from Rs.500/- per month to Rs.5,000/- after a period of 22 years cannot be said to be an illegal or exorbitant in any manner. Resultantly, the petition being devoid of any merit, is hereby dismissed.

29.7.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No