

115

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-3334-2022 (O&M)
Date of Decision: 23.08.2022**

Parveen Kumar

..... Petitioner

Versus

Smt. Kavita

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.Manish Mehta, Advocate for the petitioner.

HARKESH MANUJA, J.

Present petition has been directed against the impugned order dated 04.07.2022(P-1) passed by learned Principal Judge, Family Court, Narnaul; whereby the evidence of petitioner was closed by Court order and further to set aside the order dated 17.08.2022 (P-2); vide which application seeking permission to record his evidence was dismissed.

The petitioner-husband filed a petition under Section 13 of the Hindu Marriage Act, 1955, for short 'the Act' for dissolution of marriage of the parties by way of divorce. Issues in the divorce petition were framed on 18.07.2018 and thereafter, matter was fixed for recording of evidence. Vide impugned order dated 04.07.2022, learned Principal Judge, Family Court, Narnaul closed the evidence of the petitioner with the observation that on the said date only one witness was present and the same was examined; whereas the petitioner had already availed 14 effective opportunities including 03 last opportunities.

After passing of the order dated 04.07.2022, the petitioner moved an application before the learned trial Court praying for recording of his remaining evidence with the averment that affidavits of his three more witnesses, namely, Bhupender, Shakti Singh and Jogender were already ready, however, their evidence could not be recorded as the petitioner was in arrears of maintenance.

Learned Principal Judge, Family Court, Narnaul vide subsequent impugned order dated 17.08.2022 dismissed the application filed by the petitioner declining him an opportunity to produce his evidence. Both the orders have been challenged by the petitioner in the present revision petition.

I have heard learned counsel for the petitioner and gone through the paper-book.

It has been contended by learned counsel for the petitioner that when the order dated 04.07.2022 was passed, he was in arrears of maintenance as he had deposited the maintenance only upto 18.03.2022. He has further contended that he has already prepared a cheque dated 08.08.2022 so as to clear the arrears of maintenance upto 18.07.2022 and he has also assured the Court to clear the arrear of maintenance upto date before the next date of hearing, fixed before the trial Court.

In view of the fact that the petitioner is ready to clear the arrear of maintenance by depositing the same before the learned trial Court on the date fixed before it and the affidavits of his three witnesses, namely, Bhupender, Shakti Singh and Jogender are already ready with him, despite their being some negligence on his

part, just in order to further the cause of justice and to avoid prejudice to his rights as well as for determination of the lis on merits, I am of the view that one last effective opportunity needs to be granted to the petitioner to finally conclude his evidence.

The view of this Court also finds strength from the fact that the present is a matrimonial dispute between the husband and wife, this being one of the most pious, yet, sensitive relationship, is required to be dealt with somewhat sympathetically.

In view of what has been stated above, the present petition is allowed. Impugned orders dated 04.07.2022 and 17.08.2022 are hereby set aside, directing the trial Court to grant one effective opportunity to the petitioner-husband to conclude his entire evidence at his own responsibility.

In order to balance the equities, the petitioner is burdened with costs of Rs.5000/- to be paid to respondent-wife on the next date fixed before the trial Court.

In order to avoid any delay of further proceedings before the trial Court, the present revision petition is disposed of without issuing notice to the respondent. However, in case, the respondent find any misstatement on the part of the petitioner, she would be at liberty to approach this Court by moving an appropriate application.

August 23, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>