

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

CRR(F)-798-2022 (O&M)
Date of Decision: 06.09.2022

Manju and another Petitioners

Versus

SurenderRespondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Bikram Chaudhary, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

CRM-32989-2022

This is an application for condonation of delay of 48 days in filing the present revision petition.

It has been submitted by learned counsel for the applicant-petitioner that petitioner No.1 is a rustic woman and not aware of legal formalities. She has filed the present petition for grant of maintenance and it was dismissed for non-prosecution, however, the same fact was never informed to her and thereafter, she was to make financial arrangements for approaching this Court against the impugned order. In the process, there occurred a delay of 48 days, which is totally bona fide and not intentional. He has submitted that the accompanying revision is likely to succeed and the petitioner would suffer irreparable loss and injury, if the same is not condoned.

The application is allowed. Delay of 48 days in filing the revision petition is condoned.

Main case

The petitioner has approached this Court by way of filing the

present revision petition impugning the order dated 1.4.2022 passed by the learned Additional Principal Judge, Family Court, Faridabad, whereby petition filed by the petitioners under Section 125 Cr.P.C. for grant of maintenance was dismissed for non-prosecution.

Learned counsel for the petitioners submits that after filing of the petition, notice was issued by the learned Family Court. However, for issuance of notice, RC postal charges required to be filed, which the petitioner could not do and on account of the same, the petition was dismissed for non-prosecution. He submits that the petitioner cannot be held liable for the same as she is not well qualified and not aware of the legal intricacies and the Court has fallen in error in dismissing the same for non-prosecution. He has submitted that in the interest of justice, the impugned order be set aside and the case be heard on merits.

Heard.

The petitioners before this Court are the aggrieved wife and the minor, who approached the Court for grant of maintenance under Section 125 Cr.P.C. The marriage between petitioner No.1 and the respondent took place on 29.4.2013 and they were blessed with a child also, who is 7½ years of age. It was submitted that the wife was compelled to leave the matrimonial home and she has no independent source of income. It is on account of same, she was left with no option then to approach the Court for grant of maintenance. However, the same was unfortunately dismissed for non-prosecution, which has resulted into grave injustice to the petitioner. The Court after hearing learned counsel for the petitioner and perusing the record, is of the opinion that the impugned order dated 1.4.2022 deserves to be set aside and the case should be heard on merits.

In the facts and circumstance, the Court does not find it appropriate to issue notice to the respondent in order to save the time of the parties specially when the respondent had not put appearance before the Family Court. In the interest of justice, the impugned order dated 1.4.2022 is set aside and the learned trial Court is directed to restore the case to its original number and decide the same on merits in accordance with law. The petitioners be given two opportunities to take necessary steps for effecting service upon the respondent. In case the petitioners fail to comply with the order, the trial Court will be free to pass any order in accordance with law.

06.09.2022			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/Nos