

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

CRM-M-52652-2022

Date of decision : 15.11.2022

Anand and others

.....Petitioners

versus

Suman Devi and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rajesh Bansal, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (Oral)

Petitioners have approached this Court impugning the order dated 07.09.2022 wherein learned Judicial Magistrate Ist Class, Samalkha in Case No.COMA/11/2022 dated 04.03.2022 titled as “Suman Devi Vs. Anand and others” under Section 12 of the Protection of Women from Domestic Violence Act, 2005 has struck off the defence of the petitioners.

Learned counsel for the petitioners has submitted that after filing of the petition, first time the case was listed before the trial Court on 04.03.2022. Thereafter, it was adjourned for 19.09.2022, however, application for early hearing was filed and the case was preponed for 13.05.2022. On the said date, the petitioners duly appeared and sought time for filing reply and the case was adjourned for 19.07.2022. Thereafter, on 19.07.2022, the case was adjourned for 07.09.2022 for filing reply. He has submitted that the reply was duly prepared, however, due to some typographical corrections, the same could not be filed and the trial Court has struck off the defence of the petitioners and thus, they have been restrained from filing the reply. He submits that non-filing of the reply was totally unintentional and the petitioners would suffer

irreparable loss and injury if they are not allowed to file reply and contest the petition on merits.

After hearing counsel for the petitioners and perusing the record, it is apparent that the defence of the petitioners has been struck off on the second date. The Court is in agreement with the arguments raised by counsel for the petitioners that they would suffer irreparable loss and injury if they are not allowed to file reply and contest the petition on merits.

Keeping in view the nature of the case where the wife has approached this Court praying for grant of maintenance and the Court cannot turn blind-eye to the same and thus, the impugned order dated 07.09.2022 is *set aside*. The trial Court is requested to grant one effective opportunity to the petitioners to file reply and thereafter contest the petition on merits. The petitioners would pay cost of Rs.15,000/- to the respondent-complainant at the time of filing reply. Needless to say that if the petitioner does not pay cost as awarded by this Court and file reply on the date given by trial Court, this order be of no avail to them.

Petition stands disposed of accordingly.

15.11.2022
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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