

116

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-44397-2022 in/and
CRR(F)-1148-2022
Date of Decision: November 21, 2022

Manoj Shekhar SinghPetitioner
Versus
Pritam @ BeenuRespondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Naveen Sharma, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

CRM-44397-2022

Instant application has been filed for condonation of delay of 98 days in filing the present revision petition.

It is submitted that 98 days' delay occurred in approaching this Court for filing the present revision petition is totally unintentional and bona fide. He submits that the husband has filed a petition under Section 13 of the Hindu Marriage Act and the respondent/wife has also filed a petition before Hon'ble the Apex Court for transfer of the same. He submits that on account of multiple litigations between husband and wife, the petitioner was restrained from approaching this Court within the statutory limit and thus, there occurred a delay of 98 days in filing the accompanying revision petition. He has submitted that he would suffer an irreparable loss and injury if the delay is not condoned.

After hearing the counsel for the applicant/petitioner and perusing the record, the Court is of the opinion that the delay occurred in

filing the accompanying revision petition deserves to be condoned and the petition be heard on merits.

Hence, the present application is allowed. Delay of 98 days in filing the accompanying revision petition is condoned.

Main case

Instant revision petition has been filed impugning the order dated 12.05.2022 passed by learned Additional Additional Principal Judge, Family Court, Gurugram, whereby the defence of the petitioner had been struck off on account of non-filing of reply to the main petition.

Counsel for the petitioner has submitted that the impugned order has been passed by the learned Family Court without taking into consideration the facts and circumstances of the case. He submits that after filing of the present petition, the first date for appearance of the petitioner was 27.01.2022, on which date he had duly appeared and sought time for filing the reply and the case was adjourned to 28.04.2022. On 28.04.2022 the matter was adjourned to 12.05.2022 for filing reply. He submits that on 12.05.2022 due to some unavoidable reasons, the reply could not be filed. The learned Family Court without taking into consideration the genuineness of the problem, struck off the defence of the petitioner. He submits that the petitioner would suffer an irreparable loss and injury if the petitioner is not allowed to file reply and granted an opportunity to take his defence and contest the present revision petition.

After hearing the counsel and perusing the record, it is apparent that defence of the petitioner was struck off on the third date, i.e. 12.05.2022. Petitioner is the husband. Respondent/wife has filed a petition

under Section 125 Cr.P.C. for grant of maintenance. The defence of the petitioner/husband has been struck off. However, in view of the overall facts and circumstances, the respondent/husband deserves to be granted one opportunity to contest the petition on merits. As the proceedings under Section 125 Cr.P.C. are meant for speedy justice to the aggrieved party, so this Court finds that issuance of notice to the opposite party will delay the proceedings. The petitioner/husband is entitled to join and contest the proceedings on merits and the other party can be compensated by awarding costs.

In the facts and circumstances, the impugned order is set aside. The learned Family Court is requested to grant effective opportunity to the petitioner to file his reply and contest the petition on merits subject to payment of costs of Rs.20,000/- to be paid to respondent/wife.

Needless to say that if the petitioner does not pay the costs, as granted, this order would be of no avail to him.

Disposed of accordingly.

November 21, 2022
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**(RAJESH BHARDWAJ)
JUDGE**

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |