

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

CRR(F)-1354-2022
Date of Decision: 22.12.2022

... PETITIONER

V/S

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

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

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VIVEK PURI, J. (ORAL)

The petitioner has assailed the order dated 21.11.2022 passed by the learned Family Court, Ludhiana vide which the defence of the respondent has been struck off.

Learned counsel for the petitioner contends that vakalatnama on behalf of the petitioner was submitted in the Family Court on 20.09.2022 and the matter was adjourned to 10.11.2022 for reply. On that date, the reply could not be submitted and the case was adjourned to 21.11.2022, subject to payment of Rs. 2,000/- as costs and submission of reply to the main/interim application under Section 125 Cr.P.C. On that date the costs was not deposited and even the reply to the main/interim application under Section 125 Cr.P.C. was not submitted. A request was made for adjournment and the same was declined and the defence of the respondent was ordered to be struck off.

Learned counsel for the petitioner further contends that though the reply was prepared but the same could not be signed by the petitioner as he was to come from Bangalore. Accordingly, a request was made to the trial Court for adjournment of the case. However, the request has been declined. The petitioner has sufficient means to pay the costs. It has been

further submitted that only one opportunity may be granted to tender the earlier costs and submit the reply to the application to main/interim application under Section 125 Cr.P.C.

The dispute between the parties has arisen out of matrimonial discord. The respondent is seeking enforcement of her claim for maintenance under Section 125 Cr.P.C. It shall be appropriate, if an opportunity is granted to the petitioner to submit reply to the application to main/interim application under Section 125 Cr.P.C. and the controversy is adjudicated on merits. For the lapse on the part of the petitioner and to compensate the respondent, the petitioner can be burdened with an additional costs. The next date of hearing in the trial Court is stated to be 18.01.2023.

In these set of circumstances, the petition is disposed of with a direction that an effective opportunity be afforded to the petitioner to submit reply to the main/interim application under Section 125 Cr.P.C. However, this liberty is being granted to the petitioner, subject to the condition that he shall pay costs of Rs. 10,000/- to the respondent in addition to the costs of Rs.2,000/- as already awarded by the Court below. The amount of costs shall be paid and the replies shall be submitted in learned Family Court on 18.01.2023. However, in the event, the learned Presiding Officer is not holding the Court on that date, the needful be done on the next effective working day.

22.12.2022

Janki

**(VIVEK PURI)
JUDGE**

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