

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-43-2023 (O&M)
Date of Decision:12.01.2023

NAVEEN KUMAR Petitioner

Versus

PRIYANKA AND OTHERS Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Ms. Minakshi Singh, Advocate for
Mr. Sanjeev Kumar, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)
CRM-1421-2023

Application is for condonation of delay of 8 days in filing the appeal.

Keeping in view the averments made in the application, the application is allowed and delay is condoned.

CRM stands disposed of.

CRR(F)-43-2023

The petitioner through instant petition is seeking quashing of order dated 01.10.2022 whereby Additional Principal Judge, Family Court, Gurugram has struck of defence of the petitioner.

Learned counsel for the petitioner would submit that petitioner is a poor person. The petitioner was represented before Trial Court through an amicus curie. The Trial Court vide order dated 24.05.2022 adjourned the matter to 01.10.2022 for filing reply to the main petition as well as interim maintenance. Trial Court vide impugned order dated 01.10.2022 has struck of defence of the petitioner on the ground that several opportunities have been granted and there is

no ground to adjourn the case. None of the party on the said date had filed affidavit disclosing detail of income, assets, and expenses.

The petitioner was incompetent to put forth his defence which is evident from order dated 24.05.2022 passed by Court below and he was dependent upon an amicus curie. The petition under Section 125 Cr.P.C. was registered on 07.12.2021 and notice could not be served by 17.02.2022. On 15.03.2022, the matter was adjourned for the purpose of service. The petitioner appeared on 24.05.2022 and was directed to file affidavit disclosing assets and liabilities and impugned order came to be passed on 01.10.2022. It appears that Trial Court by mistake has noticed that several opportunities were granted and petitioner did not file reply. The factual position is different.

In the interest of justice, the petitioner deserves to be granted atleast one opportunity to file reply. Accordingly, impugned order is set aside and petitioner is directed to file reply before Trial Court on or before 20.01.2023.

Disposed of in the above terms.

(JAGMOHAN BANSAL)

JUDGE

12.01.2023

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