

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

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**CRM No.16037 of 2023 in/and
CRR (F) No. 527 of 2023 (O & M)
Date of Decision : 13.4.2023**

Arvind Kumar Jolly

..... Petitioner

versus

Chanda Jolly

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Parikshit Goyal, Advocate, for the petitioner

TRIBHUVAN DAHIYA J. (ORAL):

This is an application for condonation of 20 days delay in filing the instant petition.

For the reasons mentioned in the application, it is allowed. Delay of 20 days in filing the petition is condoned.

CRR (F) No. 527 of 2023 (O & M):

This petition has been filed for setting aside the order dated 8.12.2022 passed by the Family Court by which the petitioner's application seeking cross-examination of the respondent was not decided.

2. Learned counsel for the petitioner has contended that in the petition for maintenance under Section 125 Cr.P.C. filed before the Family Court, after she was examined as PW-1, the petitioner/husband moved an application on 8.12.2022 seeking permission to cross-examine the witness/respondent wife. Vide the impugned order dated 8.12.2022, the Family Court ordered to consider the application to cross-examine the witness on the subsequent date already fixed for evidence of the respondent. Thereafter, on subsequent dates on

12.12.2022 and 13.12.2022 the petitioner/husband was examined, and his evidence was closed, but his application for cross-examination of the respondent/wife was not decided. The case is now fixed for final arguments on 24.4.2023.

3. Learned counsel has been heard and the case file has been perused.

4. It is apparent on record that the application dated 8.12.2022 filed by the petitioner/husband was taken on record by the Family Court and was also posted for consideration on 12.12.2022. The subsequent orders passed by the Family Court dated 12.12.2022 and 13.12.2022 do not show that the said application was ever decided. It remains pending adjudication. In case the application is not decided, it will prejudice the petitioner's rights. The matter is now fixed for final arguments on 21.4.2023. Therefore, it is deemed appropriate to direct the Family Court to decide the petitioner's application dated 8.12.2022 before finally adjudicating the respondent's petition.

5. Keeping in view the nature of direction issued, service of notice on the respondent has been dispensed with, granting liberty to the respondent to seek recall of the order in case submissions made by the learned counsel are factually incorrect.

6. Disposed of.

7. Pending miscellaneous application(s), if any, stands disposed of accordingly.

(TRIBHUVAN DAHIYA)
JUDGE

13.4.2023

Ashwani

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No