

2023:PHHC:121143

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

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**CRM-M No.41662 of 2023
Date of Decision: 14.09.2023**

Bablesk Kumar

...Petitioner

Versus

State of U.T. Chandigarh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Pankaj Kalia, Legal Aid Counsel
for the petitioner.

Mr. Sarvjit Singh, Addl. Public Prosecutor, UT, Chandigarh
for respondent No.1-UT.

MEENAKSHI I. MEHTA, J. (Oral)

By way of the instant petition, the petitioner has invoked the jurisdiction of this Court under Section 482 Cr.P.C to assail the order dated 14.03.2022 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Chandigarh, whereby the application moved by him with a prayer to set-aside the *ex-parte* order passed against him on 28.03.2019, has been dismissed.

2. Shorn and short of unnecessary details, the facts unfolded from the perusal of the file, culminating in the filing of the present petition, are that respondent No.2 filed a Complaint against the petitioner-husband as well as his family members under the Protection of Women from Domestic Violence Act, 2005 and they appeared therein through their counsel. However, despite availing numerous opportunities, they did not file their Reply and finally, on 11.02.2019, neither they themselves nor their counsel put in appearance in the

trial Court and therefore, they were proceeded against *ex-parte* and after the conclusion of the *ex-parte* evidence, the said Complaint case was decided vide the judgment/order dated 28.03.2019, while holding the respondent-wife to be entitled to receive the maintenance allowance @ Rs.2000/- and the rent for her residential accommodation @Rs.1,000/- per month, from the petitioner. Feeling aggrieved by the afore-said judgment/order, the petitioner moved an application (Annexure P-2) with a prayer to set-aside the same but vide the impugned order, this application has been dismissed.

3. I have heard learned counsel for the petitioner as well as learned UT counsel in the instant petition, at the preliminary stage and have also gone through the file carefully.

4. Learned counsel for the petitioner contends that respondent No.2 -wife has been dragging the petitioner-husband and his family members to the Courts and before other Authorities, by way of filing complaints against them and the petitioner was not aware of the institution of the above-said Complaint wherein the afore-referred *ex-parte* order/judgment has been passed and in these circumstances, he deserves the relief, as sought in the present petition.

5. However, the above-raised contentions are not tenable because in Para No.5 in the impugned order Annexure P-3, the concerned Court below has specifically observed that after the issuance of notice to the petitioner and his family members in the afore-mentioned complaint case, Mr. H.S. Dhanoa, Advocate, had appeared and had filed his Power of Attorney on their behalf but however, thereafter, they did not file the written reply in that case and on 11.02.2019, they and their counsel preferred not to appear in the Court and therefore, they were proceeded against *ex-parte*. These observations falsify

the contention regarding the petitioner having no knowledge qua the filing of the above-said Complaint case against him. Further, the mere factum of the respondent-wife having allegedly been involving the petitioner in multiple proceedings, in itself, cannot be construed to be a cogent and valid ground to justify/explain his absence from the Court in the said Complaint Case.

6. As a sequel to the fore-going discussion, it follows that the instant petition, being *sans* any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

14.09.2023
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(MEENAKSHI I. MEHTA)
JUDGE

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