

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.111

CRR(F)-1203-2022 (O&M)
Date of Decision: 24.01.2023

Naveen

.... Petitioner

Versus

Smt. Reema

... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Naveen, petitioner in person.

TRIBHUVAN DAHIYA, J. (ORAL)

This petition has been filed for setting aside the order dated 06.10.2022 passed by Family Court, Faridabad, whereby petitioner/husband's application, dated 13.09.2022, under Section 311 Cr.P.C. for leading additional evidence has been dismissed.

2. The Family Court was adjudicating a petition filed by the respondent/wife under Section 125 Cr.P.C. claiming maintenance. The petitioner/husband filed the application in question under Section 311 Cr.P.C. stating that the respondent/wife had filed another case against him under Section 12 of the Protection of Women from Domestic Violence Act, 2005, also. While being cross-examined in that case on 01.06.2022, she allegedly admitted to be working earlier. By way of additional evidence, the petitioner/husband wanted to produce a copy of the said cross-examination (Annexure P-1) and claimed it to be essential for proper adjudication of the case.

3. The application was rejected by the impugned order by observing that initially the case was fixed for petitioner/husband's evidence on 19.05.2021. Despite availing several opportunities, no evidence was adduced by him. The case kept on adjourning for petitioner's evidence on 17.03.2021, 13.05.2021, 26.08.2021 and 08.10.2021. Thereupon, the case was referred to mediation, which did not succeed. On the next date of hearing, i.e., 18.11.2021, the petitioner did not appear and was proceeded against *ex parte*. On his application, the *ex parte* order was set aside subject to payment of ₹1,000 as costs vide order dated 14.02.2022, and the case was adjourned to 15.03.2022 for the petitioner's evidence. On 15.03.2022 also, the petitioner did not adduce any evidence and the case was adjourned to 06.04.2022 for his evidence as well as for payment of costs. It was again adjourned to 16.04.2022, on that date also situation remained the same. Thereupon, last opportunity was given to the petitioner for his evidence on 11.05.2022, when he examined himself as RW1, and his evidence was closed by Court order, adjourning the case for rebuttal evidence, if any, otherwise for arguments on 06.06.2022. The application in question was filed on 13.09.2022 and repeated adjournments were sought thereafter. In this situation and finding that leading of the additional evidence was not necessary, the application which was neither accompanied by any affidavit, nor copy of the so called cross-examination of the respondent/wife, was rejected by the Family Court.

4. The petitioner is not in a position to dispute the aforesaid facts recorded in the order passed by the Family Court. He only contends that leading of additional evidence to produce cross-examination of respondent/wife, which has been placed on record as Annexure P-1, is essential for decision of the case.

5. Looking at the conduct of the petitioner and the circumstances recorded in the impugned order, the Family Court has rightly dismissed the application filed by the petitioner under Section 311 Cr.P.C. A perusal of the respondent/wife's cross-examination dated 01.06.2022 also establishes that she only admitted to have worked with Apple Generator for two to three months, but was not paid any salary for it. It is, therefore, apparent that the respondent's cross-examination is not relevant for adjudication of the petition under Section 125 Cr.P.C. It does not even *prima facie* establish that the respondent/wife was earning during the said period. Filing of this petition, therefore, is an abuse of the process of law, and it has been filed only to delay adjudication of the case filed against the petitioner.

6. The petition is, accordingly, dismissed with costs of ₹10,000 to be deposited by the petitioner with the District Legal Services Authority, Faridabad, within a period of thirty days, and receipt thereof is to be furnished to the Family Court.

(TRIBHUVAN DAHIYA)
JUDGE

24.01.2023
Maninder

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