

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-302-2024 (O&M)
Date of order: 29.02.2024

Priyanka & Others

.....Petitioner(s)

Vs.

Somdev

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Jai Singh Yadav, Advocate
for the petitioner.

Nidhi Gupta, J.

CRM-9247-2024

This is an application under Section 5 of The Limitation Act read with Section 482 Cr.P.C. for condonation of delay of 302 days in filing the present petition.

No ground is made out in the application to condone such inordinate and extraordinary delay of 302 days in filing the present petition. Present application accordingly stands dismissed.

MAIN CASE

Challenge in the present petition is to order dated 28.02.2023 passed by learned Principal Judge, Family Court, Rewari, whereby in the petition filed under Section 125 Cr.P.C. by the petitioners/wife and minor children, an amount of Rs.5,000/- per month has been granted as interim maintenance to them (Rs.3,000/- for petitioner

No.1/wife and Rs.1,000/- each for petitioners No.2 and 3) from the date of filing the application.

2. Learned counsel for the petitioners inter alia submits that petitioner No.1 was married to the respondent on 27.04.2013. Two children i.e. petitioners No.2 and 3 were born out of their wedlock, who are currently in the care and custody of petitioner No.1/wife. It is submitted that the aforesaid interim maintenance as granted by learned Family Court is on lower side as the respondent/husband is running a cloth shop at village Ramgarh (Bhagwnapur); as also his father/father-in-law of petitioner No.1 is having agricultural income. It is contended that accordingly, respondent/husband is earning Rs.70,000/- per month.

3. No other argument is made on behalf of the petitioners.

4. I have heard learned counsel for the petitioners and perused the case file in detail.

5. Perusal of record of the case shows that it was the case of the respondent before the learned Family Court that petitioner No.1 was earning Rs.15,000/- per month by doing tuition classes. Upon consideration of the facts and evidences placed before it, learned Family Court had returned the following findings:-

“8. It is not disputed that applicants are the wife and children of the respondent. It is the responsibility of the husband to maintain his wife and children, who are unable to maintain themselves. The applicant no.1 states that she is unable to maintain herself and their children. It is the case of the petitioners that the respondent is running a cloth shop at village Ramgarh (Bhagwanpur) and his father is also having agriculture land and thus his total income is 70,000/- per month. Nevertheless, there is no documentary account to prove that the respondent is running a cloth shop and earning Rs.70,000/- per month. There is also no proof on the file that

his father is having any agricultural land. Despite the fact that there is no proof regarding income of the respondent, it can be presumed that respondent is an able-bodied person and he must be earning Rs.15,000/- per month. So, taking the income of respondent as Rs.15,000/- per month, it would be just and reasonable, if the respondent is directed to pay interim maintenance allowance to the tune of Rs.5,000/- per month (i.e. Rs.3000/- per month to the applicant no.1 and Rs.1000/- each to applicants no.2 and 3) from the date of application. Maintenance, if any, being taken in any other proceeding shall be adjusted accordingly. The application is partly allowed.”

6. Learned counsel for the petitioners is unable to controvert the above said findings of the learned Family Court. Even no evidence has been produced before this Court to show that the respondent is running a cloth shop and is earning ₹70,000 per month from the same. Neither any evidence is produced to show that the father-in-law of petitioner No.1 owns any agricultural land.

7. In view of the above, I find no ground is made out to interfere in the impugned order. Present petition accordingly, stands **dismissed**, on merits, as well as on ground of delay.

8. Pending application(s) if any also stand(s) disposed of.

29.02.2024
Sunena

(Nidhi Gupta)
Judge

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