

113 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR(F)-356-2024 (O&M)
Date of decision: 7th March, 2024

Gurmeet Singh Bains

...Petitioner(s)

Versus

Gurpreet Kaur and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Dinesh Maurya, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

CRM-10682-2024

The applicant is making prayer for condoning the delay of 1145 days in filing the petition against the order dated 30.10.2018 passed by learned Sub Divisional Judicial Magistrate, Kharar, in maintenance petition No. 125/50/2015, whereby the petition filed by the respondents under Section 125 of Cr.P.C. for grant of maintenance allowance has been allowed.

It is submitted by the applicant that the delay of 1145 days in filing the petition on his part was unintentional and bonafide. His father had died on 27.01.2023. The respondent No.1 had filed an FAO-M-163-2019 against him demanding a sum of ₹50,00,000/- as full and final settlement of permanent alimony. The behaviour of the respondent No.1 has remained very adamant as against him and all these factors have led to causing delay

in filing the instant petition.

The petitioner is seeking to challenge the order dated 30.10.2018 after a gap of 1145 days. The well settled proposition of law is that the law of limitation might harshly effect a particular party but it has to be applied with when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds. Reference in this regard can be held to the observations made by Hon'ble Supreme Court in '*P.K. Ramachandran vs. Stae of Kerala and another, 1997 (4) RCR (Civil)242*'. It may also be mentioned that the law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they did not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a fix period by the legislature. Reference in this regard can be made to '*Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC, 459*', wherein the Hon'ble Supreme Court had observed that the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the Courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. Reference can also be made to '*Amalendu Kumar Bera and others vs. The State of West Bengal 2013 (2) RCR (Civil) 534*', wherein it was held that delay in filing the appeal or revision cannot be mechanically condoned in the absence of 'sufficient

cause' for delay.

In this case, the applicant has not given any reasonable explanation seeking condonation of delay. Rather the application has been moved on frivolous and vague averments. In the absence of any satisfactory explanation, having come on record for condonation of delay, no case is made out for allowing this application. Accordingly, the application stands dismissed.

Since, I have heard learned counsel for the applicant at considerable length, therefore, I am also inclined to decide the main case on merits.

Main case

As mentioned above, the petitioner is challenging the order dated 30.10.2018. This order had been passed in a petition filed under Section 125 of Cr.P.C. by respondent No.1 who is wife of the petitioner for herself as well as on behalf of her minor son i.e. respondent No.2 seeking maintenance on the ground that she was married with the petitioner on 21.05.2009. The respondent No.2 was born on 26.03.2013. She was harassed physically as well as mentally by the petitioner and his family members on account of demand of dowry. She alleged that in the month of July, 2010, applications were invited by GMADA for sale of plots. The petitioner as well as respondent No.1 had applied for allotment of those plots. A plot was allotted in the name of respondent No.1 whereas the petitioner failed to get any such allotment in his favour. The money which was deposited before the

allotment of the plot was paid by the father of respondent No.1 on asking of the petitioner. The petitioner thereafter, started pressing the respondent No.1 to procure the entire payment of ₹24,00,000/- required for purchase of that plot from her father, though, her father had already paid an amount of ₹2,40,000/-. On refusal of respondent No.1 to do so, she was tortured by the petitioner and his family members. She alleged that the behaviour of the petitioner and his family members kept on worsening and ultimately, she alongwith her minor child was thrown out of her matrimonial house by the petitioner in June, 2013. While pleading that she was unable to maintain herself and her minor child and had no source of income, she filed the aforementioned petition for grant of maintenance.

2. A perusal of the record reveals that the respondent had been granted opportunity to file reply and filed the same resisting the pleas as taken in the petition filed by respondents. The parties were given opportunity to lead evidence and after considering the same, learned trial Court vide the impugned order dated 30.10.2018, allowed the petition thereby, directing the present petitioner to pay an amount of ₹6,000/- per month to each of respondents No.1 and 2.

3. Learned counsel for the petitioner submits that the impugned order is not sustainable in the eyes of law, as while passing the same, the learned trial Court failed to consider the fact that respondent No.1 had already been married and divorced twice and it was her third marriage with the petitioner. She had levelled false allegations of demand of dowry

whereas it was a very simple marriage. The petitioner and respondent No.1 had jointly filed a petition under Section 13-B of Hindu Marriage Act. He had agreed to pay an amount of ₹5,50,000/- to respondent No.1 as against past, present and future maintenance of respondent No.1. The respondent No.1 had received payment of the aforementioned amount, but thereafter, did not record her statement and the said petition was dismissed as withdrawn. The petitioner had filed a petition under Hindu Marriage Act as well but respondent No.1 had not come to live with him. The amount as directed to be paid by him to the respondents was highly disproportionate to his income and expenditure. Therefore, it is argued that the impugned order is liable to be set aside.

4. On going through the contents of the impugned order, I am of the considered opinion that the same does not warrant any interference. The respondents are wife and child respectively of the petitioner. On the basis of salary slip placed on record by petitioner himself, the learned trial Court had observed that he was getting salary of ₹35,203/- per month. Though the respondents had claimed that he was having income from agricultural and rental sources also but as no evidence had been produced on record by the respondents to prove so, therefore, this fact was not considered. The maintenance at the rate of ₹6,000/- per month to each of the respondents was directed to be paid. It is well settled that order granting maintenance to wife and children should not be lightly interfered with unless any illegality or manifest injustice is made out. No such illegality is, however, made out in

this case in the impugned order. Therefore, I find no reason to interfere with the same. Accordingly, affirming the findings as given by learned Family Court, the revision petition is dismissed.

5. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th March, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |