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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-450-2024 (O&M)
Date of decision: 01.04.2024

Deepak

... Petitioner

Vs.

Rajni and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mandeep Singh Kundu, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned order dated 21.02.2024 passed by the learned Family Court, Panipat, Camp Court, Samalkha in the maintenance petition bearing No.MNT-241-2022 titled as *Rajni and another Vs. Deepak* under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), whereby defence of the petitioner has been struck off.
2. The marriage between the petitioner and respondent No.1 was solemnized on 09.12.2020 according to Hindu rites and rituals. The marriage was consummated and out of this wedlock, one female child namely Jiya was born. After some time, the matrimonial dispute arose between the parties and thereafter, respondent No.1 filed a petition under Section 125 Cr.P.C.

seeking maintenance from the petitioner. The learned Family Court has struck off defence of the petitioner on account of non-filing of the reply. Aggrieved by the impugned order, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was very vigilant and it is fault of the counsel engaged by the petitioner, who in spite of granting last opportunity, did not file reply to the petition under Section 125 Cr.P.C. filed by respondent No.1 for grant of interim maintenance. It is further contended that the petitioner engaged another counsel, who also did not file any reply on the next date.

4. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, it is evident that the petitioner was initially proceeded ex-parte on 03.05.2023 and thereafter, ex-parte order was set aside and the petitioner was granted last opportunity to file reply to the petition under Section 125 Cr.P.C. for grant of interim maintenance. In spite of that, reply was not filed. Thereafter, on 06.12.2023, the petitioner was granted one last opportunity to do the needful and ultimately, vide order dated 21.02.2024, the learned Family Court, after noticing that despite availing sufficient opportunities, the petitioner failed to file the reply, struck off defence of the petitioner.

5. The case of the petitioner is squarely covered by the ratio of law laid down by the Hon'ble Supreme Court in ***Rajnish Vs. Neha and another, (2021) 2 SCC 324***, in which the judgment passed in ***Kaushalya Vs. Mukesh Jain, (2020) 17 SCC 822***, was reiterated. The Hon'ble Supreme Court has

authoritatively held that if the respondent delays in filing the reply with the affidavit and seeks more than two adjournments for this purpose, the Court may consider by exercising its power to struck off his/her defence, if the conduct is found to be willful and contumacious in delaying the proceedings. As such, on the failure to file the reply within the prescribed time, the learned Family Court has passed the impugned order, while considering the case in the right earnest.

6. Since no perversity and illegality has been found in the impugned order, which warrants interference by this Court, present petition is dismissed being bereft of any merit.

01.04.2024
vishnu

**[HARPREET SINGH BRAR]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No