

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19701-2024

Date of decision: 22.04.2024

Chetan Makhija

... Petitioners

Vs.

Mehak Luthra and another

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Rampal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred under Section 482 Cr.P.C. seeking quashing of impugned order dated 24.11.2022 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Chandigarh vide which the defence of the petitioner was struck off in proceedings under Section 125 Cr.P.C. bearing MNT No. 125/338/2021 dated 04.10.2021 titled '***Mehak Luthra and another vs. Chetan Makhija.***'

2. The marriage between the petitioner and respondent no. 1 was solemnized on 01.03.2011 and one female child (respondent no. 2) was born out of this wedlock. However, matrimonial dispute ensued and respondent no. 1 filed for grant of maintenance under Section 125 Cr.P.C. In spite of several opportunities, including a last opportunity, the petitioner failed the petitioner failed to file a written reply, which resulted in his defence being struck off.

3. Learned counsel for the petitioners, *inter alia*, contends that the affidavit of assets and liabilities has already been filed before the learned trial Court on 01.08.2022. Respondent no. 1 has preferred a petition under Section 13 of the Hindu Marriage Act, 1955, which is still pending

consideration. An FIR bearing no. 73 dated 21.09.2022 registered under Sections 406, 498-A of Indian Penal Code at Police Station Women Police Station, Chandigarh was also registered by respondent no. 2. Since the petitioner was engaged in the trial in the FIR case, he could not put in appearance personally. It was the counsel of the petitioner who had failed to file the written reply for reasons known best to him. Learned counsel submits that that the petitioner should not be punished by having his defence struck off for fault of his counsel.

4. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, the matter is taken up for final disposal.

5. A perusal of the impugned order dated 24.11.2022 (Annexure P-2) indicates that the learned trial Court has granted sufficient opportunities to the petitioner to file the written reply, including a last opportunity and an opportunity with cost. This Court does not find any reason to condone the lackadaisical attitude of the petitioner and therefore, is in agreement with the learned trial Court's decision to strike off the petitioner's defence.

6. Pertinently, a two Judge Bench of the Hon'ble Supreme Court in the case of ***Rajnesh Vs. Neha and another, (2021) 2 SCC 324*** has relied upon its judgment rendered in ***Kaushalya vs. Mukesh Jain, (2020) 17 SCC 822*** to categorically hold that the concerned Courts may not grant more than two opportunities for submission of the written reply along with affidavits by the respondent. If the respondent seeks more than two adjournments for this purpose with an intention to unnecessarily delay the proceedings, the Court may proceed to strike off his defence.

7. Keeping in view the facts and circumstances of the case, this Court finds no illegality or perversity in the impugned order, therefore, the present revision petition is dismissed, being devoid of any merit.

22.04.2024
Ajay Goswami

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No