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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33198-2024 (O&M)
Date of decision: 15.07.2024

Satbeer Kaur

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nikhil Anand, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking issuance of direction to learned trial Court at Dera Bassi, SAS Nagar to expedite the proceedings in case bearing MNT No.234 of 2021 dated 16.11.2020 (Annexure P-1) filed by the petitioner seeking maintenance and decide the same in a time bound manner preferably within a period of four months.
2. The marriage between the petitioner and respondent No.2 was solemnized on 20.03.2017 according to Sikh rites and rituals. Out of this



wedlock, a female child was born on 12.03.2018. Due to temperamental differences, the marriage between them could not survive. Thereafter, when respondent No.1 thrown out the petitioner and his minor daughter from the matrimonial home, the petitioner filed an application under Section 125 Cr.P.C. seeking maintenance and the same is pending adjudication since 2021. Feeling aggrieved, the petitioner has prayed for issuance of direction to learned trial Court to decide the application under Section 125 Cr.P.C. by way of filing the present petition.

3. Learned counsel for the petitioner, *inter alia*, contends that application under Section 125 Cr.P.C. (Annexure P-1) seeking maintenance was filed on 16.11.2020 before learned Judicial Magistrate 1st Class, Dera Bassi and after passing of about 03 years, learned jurisdictional Court could not decide the same, as respondent No.2 is delaying the proceedings by not filing his affidavit declaring assets and liabilities. Learned counsel for the petitioner relies upon the zimni orders (Annexures P-2 to P-7) passed by learned Court concerned on various dates. It is further contended that dilatory tactics are being adopted by respondent No.2 to delay decision of proceedings under Section 125 Cr.P.C. The petitioner and her minor daughter are on the verge of destitution.

4. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, without issuance of notice to the respondents in order to save the judicial time and litigation costs



upon the respondents, the matter is being taken up for final disposal.

5. A perusal of the record indicates that the application under Section 125 Cr.P.C. was filed by the petitioner on 16.11.2020 and the same is pending adjudication and respondent No.2 is delaying the said proceedings, as despite availing more than two opportunities, he has not filed the affidavit declaring the assets and liabilities.

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***, while relying upon its judgment rendered in ***Kaushalya vs. Mukesh Jain, (2020) 17 SCC 822***, has categorically held that the concerned Courts may not grant more than two opportunities for submission of the Affidavit of Disclosure to be filed by the respondent. If the respondent seeks more than two adjournments for this purpose in order to unnecessarily delay the proceedings, the Court may proceed to strike off the defence of the respondent and thereby, decide the application for maintenance on the basis of the affidavit filed by the applicant and the pleadings on record.

7. Keeping in view the prayer made by the petitioner, present petition is disposed of and learned Judicial Magistrate 1st Class, Dera Bassi is directed to decide the interim maintenance application filed in MNT No.234 of 2021 dated 16.11.2020 (Annexure P-1) by the petitioner seeking maintenance from respondent No.2, within a period of six weeks from the date of receipt of certified copy of this order.



8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned Judicial Magistrate 1st Class, Dera Bassi shall proceed without being prejudiced by observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

15.07.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No