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114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 27.09.2024

LAKHBIR SINGH

.....PETITIONER

Vs.

NEELAM KUMARI AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

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

HARPREET KAUR JEEWAN J. (ORAL)**CRM-34596-2024**

In view of the averments made in the application, which is duly supported by an affidavit of the applicant-petitioner, the application for condonation of delay of 118 days in filing the present petition is allowed and the delay of 118 days in filing the present petition is hereby condoned.

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1. The present Criminal Revision Petition has been filed for quashing the order dated 30.01.2024, passed by the learned Family Camp Court, Batala, District Gurdaspur, whereby an interim maintenance @₹8,000/- each per month was granted to respondents No. 1 and 2 in a petition under Section 125 Cr.P.C.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was unable to file his affidavit regarding his income, expenditure, assets and liabilities, in terms of the judgment of the Hon'ble Supreme Court in **Rajnesh** vs. **Neha and another** [2021 (2) SCC 32], he was admitted in the

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hospital, which is evident from the medical record [Annexure P-1 (colly.)].

Petitioner undertakes to clear the arrears of maintenance @ ₹5,000/- per month each to respondents No. 1 and 2, in terms of the order passed by the learned Family Court, however, seeks an opportunity to file an affidavit of his income, expenditure, assets and liabilities in terms of the aforesaid judgment of Hon'ble the Supreme Court in Rajnesh's case (*supra*).

3. Keeping in view the facts and circumstances of the present case, issuance of notice to the respondents is dispensed with as it would unnecessarily delay the proceedings.

4. It is evident from the admission slip [Annexure P-1 (colly.) (page No. 26 of the paper book)] that the petitioner was admitted in the hospital on 21.04.2023 and discharged on 18.05.2023. The Family Court has observed that many opportunities were availed by the petitioner (respondent before the Family Court) to file his affidavit qua his income, expenditure, assets and liabilities in order to disclose his actual income but such affidavit was not filed.

5. As per the hospital record of the petitioner [Annexure P-1 (colly.)], it is apparent that non-filing of the affidavit was not intentional but only on account of the medical conditions of the petitioner, as such, in the interest of justice, the petitioner should be heard on merits and he should be given an opportunity to file his affidavit qua his income, expenditure, assets and liabilities, in terms of the decision of the Hon'ble Supreme Court in Rajnesh's case (*supra*)

6. Consequently, without making any comment on the actual merits of the case, the present petition is allowed. The matter is remanded



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back to the Family Camp Court, Batala, District Gurdaspur, subject to the following condition(s):-

- i. That the petitioner would clear the arrears @₹5,000/- per month each qua respondents No. 1 and 2 within three equal installments and the matter should be decided afresh after hearing the parties and after considering the affidavits of both the parties regarding their income, expenditure, assets and liabilities.

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

September 27, 2024 (HARPREET KAUR JEEWAN)
nitin JUDGE

Whether Speaking	Yes
Whether reportable	No