

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Revision No.643 of 2024****Date of Decision: 30.09.2024**

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|-------------------|--------|------------------|
| Hans Raj @ Ghimo | |Petitioner |
| | Versus | |
| Tilko and Another | |Respondents |

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.Whether approved for reporting? ¹.**For the Petitioner:** Mr. Goldy Kumar, Advocate.**For the Respondents:** Mr. Tek Chand, Advocate.**Sandeep Sharma, Judge**(oral):**Cr.MP(M) No.1304 of 2024**

By way of instant application filed under Section 5 of the Limitation Act, prayer has been made by the applicant for condonation of delay in filing the accompanying criminal revision petition, which is barred by limitation.

2. Mr. Tek Chand, Advocate, has put in appearance on behalf of the non-applicant/respondent. He states that since no plausible explanation has been rendered on record qua delay in maintaining the accompanying criminal revision petition, prayer made on behalf of the applicant/petitioner for condonation of delay deserves to be declined.

3. Having heard learned counsel for the parties and perused averments contained in the application, which is duly

¹Whether the reporters of the local papers may be allowed to see the judgment?

supported by an affidavit, this Court is convinced and satisfied that delay in maintaining the accompanying criminal revision petition is neither intentional nor willful, rather same has occurred on account of circumstances which were completely beyond the control of the applicant and as such, same deserves to be condoned.

4. Accordingly, for the reasons stated in the application, delay in filing the petition, which in my considered view, has sufficiently been explained, is condoned. The application stands disposed of.

5. Criminal Revision Petition be registered.

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6. Being aggrieved and dissatisfied with order dated 18.10.2023 passed by learned Additional Principal Judge (Family Court) Chamba, District Chamba, Himachal Pradesh, whereby learned Court below, while considering the prayer made on behalf of the respondent for grant of ad interim maintenance under Section 125 Cr.P.C, proceeded to award sum of Rs.3000/- per month as interim maintenance, petitioner has approached this Court in the instant proceedings filed under Section 19(4) of the Family Court Act, praying therein to set aside aforesaid order.

7. Precisely, the grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. Goldy Kumar, learned counsel for the petitioner, is that learned Court

below, while awarding ad interim maintenance, failed to take note of the pleadings as well as other material adduced on record suggestive of the fact that the respondent has sufficient means to sustain herself.

8. Having heard learned counsel for the parties and perused the material available on record vis-à-vis reasoning assigned in the impugned order, this Court sees no illegality or infirmity in the same and as such, no interference is called for.

9. Needless to say, while considering prayer, if any, for ad interim maintenance under Section 125 Cr.P.C, Court is not required to see documentary evidence, if any, adduced on record, rather at that stage, Court is only required to see pleadings of the parties seeking such maintenance. Very purpose and object of granting interim maintenance during the pendency of the main petition under Section 125 Cr.P.C., is to ensure that a person seeking such maintenance is not left to starve.

10. In view of the above, this Court finds no merit in the present petition and accordingly same is dismissed, as a result whereof, order impugned in the instant proceedings is upheld, with a direction to learned Court below to decide the main petition filed under Section 125 Cr.P.C, expeditiously, preferably within a period of two months. Needless to say, maintenance received by the respondent as ad interim maintenance shall be adjusted in the

amount, if any, awarded in the main petition under Section 125 Cr.P.C.

11. Learned counsel representing the parties undertake to cause presence of their respective clients before the Court below on **11.12.2024**, enabling it to do the needful well within stipulated time. Pending applications, if any, also stand disposed of.

**(Sandeep Sharma),
Judge**

September 30, 2024
(Rajeev Raturi)