

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 405 of 2014 (O&M)
Date of decision: July 20, 2015

Deepak Garg

...Petitioner

Versus

Nisha Rani

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ? Yes**
2. **To be referred to the Reporters or not ? Yes**
3. **Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Achin Gupta, Advocate,
for the petitioner.

Mr. Naresh Kumar Manchanda, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. The revision petition is against an order declining a request for medical examination of the respondent wife. The petition was for annulment of the marriage that took place on 11.12.2008 on the ground that the wife was blind of one eye and partially blind to the extent of visual acuity to the extent of 30% only. The petition was filed in June, 2012 i.e. more a year after the marriage on a plea that he came to know about the defect only within one year from the date of the petition.

2. It appears that the wife had a child conceived and born subsequently but wife was discarded by the husband and hence she filed a petition for grant of maintenance under Section 125 of the Criminal Procedure Code. Even at the criminal trial, she was cross-examined with reference to her vision and she had stated that her eye sight was normal and

she could read and write and she was also prepared to have medical examination done, if it was pressed forth.

3. The husband has filed an application for the examination of the wife for assessing the degree of vision. The wife resisted the application and the court allowed the objection to prevail. It is this order that is brought for challenge before this court.

4. I would find that there is no error for intervention for two reasons: (i) The main petition by husband for annulment beyond one year itself is belated and I will not see any strong prima facie case for compelling the wife to be brought for medical examination. The petitioner has a long way at the trial to convince the court that the so-called blindness in eyes was not revealed to him for literally three years till he filed the petition. An interlocutory application must advance a justifiable cause brought within appropriate time. I will not make any observation now that may harm the petitioner further. (ii) The compulsion for medical examination against a party will except to the extent permissible under Section 53 of the Code of Criminal Procedure shall at all times be resisted. An autonomy over a body that a person enjoys is so sacred that invasion into privacy for medical examination cannot be resorted unless there are extremely compelling reasons that should allow for such an exercise. A party who is unwilling to be examined cannot be compelled through a judicial order under the present circumstances disclosed which is covered through the first point raised and answered.

5. I decline to make any intervention. The revision petition is dismissed.

July 20, 2015
prem

(K.KANNAN)
JUDGE

