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

CRM-M-14445 of 2013

Date of Decision: October 20, 2015

Smt. Jarnail Kaur

.....Petitioner

Versus

Chhota Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ashwani Verma, Advocate
for the petitioner.

Mr. S.S. Sahu, Advocate
for the respondent.

SABINA, J.

Petitioner has filed this petition challenging the orders dated 21.12.2011 and 16.01.2013.

Petitioner had filed petition under Section 125 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short) seeking maintenance. Trial Court vide order dated 21.12.2011 dismissed the said petition. The order passed by the trial Court was upheld by the Court of revision vide order dated 16.01.2013. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that first husband of the petitioner had died and thereafter, she had performed marriage with the respondent. Petitioner was having a Ration Card with the respondent. The Courts below had erred in dismissing the petition filed by the

petitioner under Section 125 Cr. P.C.

Learned counsel for the respondent, on the other hand has opposed the petition and has submitted that in fact, petitioner was married to Ram Singh and out of the said wedlock, five children were born. Ram Singh was still alive and there was no occasion for the petitioner to have performed marriage with the respondent.

Admittedly, petitioner was married to Ram Singh and out of the said wedlock, two sons and three daughters were born. Petitioner had failed to establish before the trial Court that Ram Singh had died. The death certificate of Ram Singh was not proved on record. It has been noticed by the trial Court that the case of the petitioner was that the youngest child born to her from her wedlock with Ram Singh was twenty years old and her husband had died after one month of the birth of her youngest child. Testimony of the petitioner was recorded on 21.04.2011. Thus, the youngest child was born to the petitioner in the year 1991. Thus, Ram Singh was alive in the year 1991. In this regard, learned trial Court has further noticed that a complaint dated 07.08.1991 had been filed by the petitioner alleging herself as wife of Ram Singh and had made a prayer that action be taken against her husband Ram Singh who was compelling her to have illicit relations with police officials. On an inquiry made by the police, it was found that the petitioner was a lady having not a good character and had been thrown out of the

matrimonial home by her husband about 8-9 months before filing of the complaint. Police recommended that action be taken against the petitioner under Section 182 of Indian Penal Code, 1860. In the bail application filed by the petitioner on 10.08.1998, she had described herself as wife of Ram Singh. Taking in consideration the above facts, the learned trial Court rightly came to the conclusion that the plea taken by the petitioner that her husband had died in the year 1986 and thereafter, she had got married to the respondent, was not proved on record. Since the petitioner had failed to establish the death of her first husband, the witnesses examined by her to establish that she had performed marriage with the respondent, were liable to be disbelieved.

In the facts and circumstances of the present case, the Courts below had thus, rightly dismissed the application filed by the petitioner under Section 125 Cr. P.C.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

October 20, 2015
mahavir