

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

(117)

CRM-M-29817-2015

Decided on: September 15, 2015.

Amrinder Singh

.... Petitioner

Versus

Kanchan Saini and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. R.D. Bawa, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

Petitioner is aggrieved against order dated 03.06.2015 granting interim maintenance to respondents No. 1 to 2, who have filed a petition under Section 125 Cr.P.C against the petitioner. The main grievance of the petitioner is that respondent No.1 Kanchan Saini has obtained divorce by mutual consent under Section 13-B of the Hindu Marriage Act after receiving sum of Rs. 2,40,000/-. She resiled from her first statement made in the Court and had married another person during the subsistence of her first marriage with the petitioner. The second marriage has been declared to be null and void vide Annexure P-7 by a decree under Section 12 of the Hindu Marriage Act on 10.06.2009.

In view of said circumstances, learned counsel for the petitioner has submitted that respondent No.1 will be deemed to have been barred under Section 125 (4) Cr.P.C for having indulged in adultery making

respondent No.1 legally dis-entitled to claim any maintenance or interim maintenance.

I have heard learned counsel for the petitioner and I am of the opinion that the marriage of respondent No.1 with petitioner has not been dissolved and her second marriage having been declared as null and void vide an ex parte decree dated 10.06.2009, she remains legally wedded wife of the petitioner. Whether on receipt of sum of Rs. 2,40,000/-, as alleged by the petitioner, pursuant to the first statement made in proceedings under Section 13-B of the Hindu Marriage Act, respondent No.1 could claim any maintenance, cannot be adjudicated upon at the stage of determination of interim maintenance. The plea of adultery taken by the petitioner would be a debatable question of fact and by implication respondent No.1 cannot be prima facie said to be dis-entitled to claim her rights as wife of the petitioner.

In view of said circumstances, I do not find any ground to interfere in the order passed by the trial Court granting interim maintenance to respondents No. 1 and 2. So far as respondent No.2 is concerned, he admittedly being minor son of the petitioner, would be entitled to interim maintenance subject to any final decision passed by the trial Court at final stage.

Dismissed.

(M.M.S. BEDI)
JUDGE

September 15, 2015
harsha