

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

Crl. Revision No. 2483 of 2009 (O&M)

Date of Decision: 20.05.2015

Sanjay

.. Petitioner

Vs.

Smt. Ladi & Ors.

.. Respondents

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Anil Ghanghas, Advocate
for the petitioner.**

**Mr. Ramender Chauhan, Advocate
for the respondent.**

ANITA CHAUDHRY, J.

The instant revision petition is directed against the order dated 29.07.2009 passed by the District Judge (Family Court), Bhiwani vide which the petitioner herein has been directed to pay maintenance @ Rs.1000/- per month to respondent no.1 and Rs.500/- each to respondent No.2 and 3 from the filing of petition.

The facts leading to the filing of instant revision may be spelt out first, the respondents filed a petition under Section 125 Cr.P.C. claiming maintenance from the petitioner. It was their case that respondent No.1 was earlier married to Ramesh, elder brother of petitioner

Sanjay. Out of that wedlock, a son and daughter were born. After the death of Ramesh, respondent no.1 was married to Sanjay by Karewa. Out of that alliance, respondent no.3 was born. It was further their case that petitioner Sanjay harassed petitioner No.1 for bringing more dowry and demanded cash for purchasing a tractor and failed to maintain them.

The petitioner defended the claim by denying the relationship between the parties. It was his case that after the death of his brother Ramesh, respondent No.1 left the matrimonial home and no Karewa took place as claimed. It was further pleaded that respondent No.1 lived in adultery. Accordance to him, he was minor at the time of death of his brother Ramesh.

In support of their case, respondent No.1 herself stepped into the witness box as PW1 and Dayanand was examined as PW2.

To controvert the evidence produced by the respondents, the petitioner himself appeared as RW1 and also examined his father, Ranjeet as RW2.

The trial Court came to the conclusion that respondent No.1 had performed Karewa marriage with the petitioner after the death of Ramesh, (ii) respondents were forced to live in her parental home and (iii) the petitioner

neglected to maintain them. They were awarded maintenance in the manner indicated above.

Dis-satisfied with the same, instant revision petition has been filed.

The grouse of the petitioner is that the Court below has misread the evidence to conclude that there was a Karewa marriage between the parties and wrongly fastened the liability upon the petitioner to pay the maintenance to the respondents, which he was not legally liable to pay.

From the pleadings of the parties, it is apparent that the petitioner specifically denied the Karewa marriage. In support of her case, respondent No.1 stepped into the witness box. She also examined Dayanand, brother of father of petitioner as RW2. The Court below placed implicit reliance upon their testimonies to conclude that there was Karewa marriage between the petitioner and respondent No.1.

It is not seriously disputed that PW2 Dayanand was having strained relations with family of petitioner. Documents showing civil as well as criminal litigation between them were produced on record. There were reasons for him to depose against the petitioner. Thus, his testimony cannot be relied upon.

Moreover, their testimonies are found to be discrepant with each other. As per PW1 no Pandit was called at the time of Karewa while PW2 deposed that Rattan Lal Pandit was called at that time. No person who was present at the ceremony was examined by respondent No.1 for the reasons best known to her. Even her parents failed to appear in Court. A certificate issued by the Sarpanch of Gram Panchayat village, Baralu was placed on the file but no attempt was made to prove it. In the considered opinion of the Court, only on the basis of self serving statement of PW1 Smt. Lado, the Court below erred while concluding that there was Karewa marriage.

Respondent No.1 got married to Ramesh somewhere in 1996. As per PW1 he died on 17.05.2001. The Karewa took place just after 13 days of death of Ramesh. In the identity card (Mark RD) issued by the Election Commission of India in the year 2002, Lado is shown to be the wife of Ramesh. As per documents on record i.e. matriculation certificate, the date of birth of the petitioner is 15.01.1984, he was just 17 years of age at the time of alleged Karewa.

As respondent No.1 failed to prove her Karewa with the petitioner, he was not legally bound to maintain the respondents. The findings returned by the Court below

foisting liability upon the petitioner to maintain respondents is not legally sustainable and is set aside.

The instant revision petition is allowed and order dated 29.07.2009 passed by the Court below is set aside. The application for maintenance filed by the respondents stands dismissed.

May 20, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE