

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

CRM-M-11310 of 2016 (O&M)

Date of decision: 22.07.2016

Harinder Singh

... Petitioner

versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. M.S. Sachdev, Advocate for the petitioner.

ANITA CHAUDHRY, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. challenging the order dated 03.03.2016 whereby the permission sought by the accused to get the DNA test of the complainant was rejected.

The wife had filed a complaint upon which FIR No.234 dated 14.10.2014, registered under Section 406, 498-A, Police Station Division No.7 Jalandhar. After the completion of the evidence the accused filed an application for giving directions to the prosecution to procure the presence of the complainant, her uncle and her brother for the purpose of DNA test. It was his plea that a fraud had been played upon him and the complainant was born out of the illicit relationship of her mother and the uncle of the complainant.

Trial Court rejected the application. Aggrieved by it, a revision was filed which has also been rejected.

Counsel for the petitioner contends that for the purposes of ascertaining the parentage of the complainant and to bring the truth before the Court, the DNA test of the complainant and her brother and the uncle needs to be conducted and the directions should have given by the trial Court.

On a complaint made by the wife, the FIR had been registered in October 2010 under Sections 406, 498-A IPC, Police Station Division No.7 Jalandhar. The complainant was married to Harminder Singh in June 2009.

A complaint was lodged against the husband, the father-in-law and the sister-in-law. Allegation of harassment, maltreatment and demands were levelled. The complainant had alleged that the husband used to send filthy, defamatory messages to mentally torture her and started defaming her before the general public.

The prosecution evidence had been recorded. The statement of the accused was recorded on 31.10.2015, thereafter a application Annexure-P5 was moved by the accused that at the time of the marriage, it was disclosed to the family that the father of the complainant had died but it transpired later and he had left and had deserted the mother and the complainant was born out of the illicit relationship between the mother and Sohan Singh Parhar. They had made enquiries and found that Sohan Singh Parhar was a regular visitor to the house of the complainant and a fraud had been played and it is necessary to ascertain the truth and get the DNA test conducted for which the prosecution should be directed to produce the complainant, Sohan Singh Parmar and Parminder Deep Singh for the purpose of conducting the DNA.

The trial Court after hearing the parties held as under:

“The paternity of the complainant is nowhere linked or is relevant for deciding the present case. No useful purpose will be served by calling the complainant or the other persons, who have already denied the averments of the application through the public prosecutor. The application is not maintainable and the same is neither warranted in the present situation nor there is any plausible reason to the accused the complainant has deserted him due to the fact

that the accused enquired into the paternity of the complainant. This Court is not to decide about the ground of desertion if any and once the prosecution is not ready to produce the complainant again it is not justified to call her into the Court to prove paternity. The accused at liberty to prove this fact in the other cases if so pending between the parties and the request in the present case cannot be allowed. As a result of aforesaid discussion the application in hand is devoid of any merits, the same is hereby dismissed without effecting the merits of this case.”

The petitioner has challenged the order passed by the Magistrate in this petition under Section 482 Cr.P.C. I find no merit in the petition. The issue regarding the paternity of the complainant is not necessary to be determined nor is relevant. Charge has been framed against the petitioner under Section 406, 498-A in December 2010.

There are no grounds to invoke the provisions of Section 482 Cr.P.C. It appears that the application has been made only to embarrass the complainant and delay the proceedings. The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

23.07.2016
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