

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM No.M-23061 of 2014(O&M)**  
**Date of Decision: April 04, 2016**

Lachhman Singh

...Petitioner

**VERSUS**

Gurjit Kaur and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**Present: Mr.Arihant Jain, Advocate  
for the petitioner.Mr.Jai Bhagwan, Advocate  
for the respondents.

\*\*\*\*

**INDERJIT SINGH, J.**

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents Gurjit Kaur and Gurpreet Singh for quashing of the impugned order dated 09.05.2014 passed by learned JMIC, Malerkotla vide which the application filed by the petitioner for directing Gurjit Kaur to produce original divorce deed dated 13.02.2010 and in case of default, permission may kindly be granted to prove photocopy of the divorce deed dated 13.02.2010 by way of secondary evidence, was dismissed.

Notice of motion was issued and learned counsel for the respondents appeared and contested the petition.

I have heard learned counsel for the parties and have

gone through the record,

From the record, especially the impugned order, I find that Gurjit Kaur and Gurpreet Singh filed the application under Section 125 Cr.P.C. for fixation of maintenance against Lachhman Singh and also for half share of the amount of the retirement benefits. In those proceedings, an application was filed by the present petitioner for directing the applicants Gurjit Kaur and Gurpreet Singh to produce and bring on record the original divorce dated 13.02.2010 in the Court and in case of default, for granting permission to prove the photocopy of divorce dated 13.02.2010 by way of secondary evidence.

Learned JMIC, Malerkotla, vide impugned order dated 09.05.2014 dismissed the application filed by the present petitioner.

Learned counsel for the petitioner argued before the lower Court as well as before this Court that the petitioner sent the divorce to the applicant Gurjit kaur on 15.02.2010 vide registered post bearing post receipt No.7794 dated 15.02.2010, which was duly received by the applicant. On the other hand, learned counsel for the present respondents denied this fact. Learned counsel for the respondent argued that applicant has relied upon the judgment dated 15.12.2003 qua a case, which was filed by the respondent for divorce under Section 13 of Hindu Marriage Act. In that case, present petitioner pleaded that he was married to the applicant according to Sikh religious rights and it is argued by learned counsel for the respondent that now the petitioner wants to rely upon the alleged divorce deed.

Both the statements are contradictory to each other and creates doubt

regarding the existence of any alleged divorce deed.

The perusal of the record also shows that there is no other document or evidence on record to show the existence of alleged divorce deed dated 13.02.2010. Furthermore, these are the proceedings under Section 125 Cr.P.C. for fixation of maintenance. As per provision under Section 125 Cr.P.C., even a divorced wife is also entitled to maintenance. Therefore, in no way the production of divorce deed can be held as material for the purpose of deciding the application under Section 125 Cr.P.C.

In view of the above discussion, the impugned order dated 09.05.2014 passed by learned JMJC Malerkotla is correct, as per law and in no way amounts to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

**April 04, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**