

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

**Crl. Rev. No. 276 of 2013 (O&M)
Date of decision : 27.07.2016**

ANITA SHARMA

.....Petitioner(s)

Versus

KARAN SINGH

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

Present: Mr. Sushil Bhardwaj, Advocate
for the petitioner.

Mr. Subham Kaushik, Advocate
for the respondent.

ANITA CHAUDHRY, J.

The instant revision is directed against order dated 29.11.2012, passed by the District Judge (Family Court), Bhiwani who dismissed the petition filed by the wife under Section 125 Cr.P.C.

It is necessary to refer to the factual matrix. The petitioner was married to Karan Singh about 20 years ago. They have four children. The petitioner alleges that the eldest child was adopted by the sister of the respondent. The remaining three children are living with the husband. The petitioner claimed that the respondent was cruel and mis-behaved with her on petty matters and gave her beatings and threw her out of the house. The petitioner moved an application seeking maintenance on 24.08.2011. The matter was got compromised by the Panchayat and on the assurance given by the husband the petitioner returned to the matrimonial home. She claims

that the behavior did not change and the husband started harassing and humiliating her. On 06.09.2011, he mixed some poisonous substance in her food. The petitioner felt un-easy while having food and she threw the food in the street, which was eaten by a stray dog who was found dead the next morning. The petitioner made a complaint to the police and the husband was challaned under Section 107/151 Cr.P.C. The petitioner returned her parent's house and was now living with them. The petitioner claims that she has no source of income and the husband was working in a private college and had agricultural land and his income from all sources was more than Rs.20,000/- per month. The petitioner had claimed Rs.5,000/- per month as maintenance amount and litigation expenses.

In the reply it was pleaded that the petitioner was arrogant and she never cared nor concerned with the upbringing of the children but he tolerated her thinking that she would mend her ways. It was pleaded that she used to remain away from home at night. It was pleaded that the eldest child was born in November, 1992 and was a student of B.A. 2nd year. The son was in the 10th Class and two other daughters were also school going. It was pleaded that his mother was 75 years old and he owned 18 kanals of land and had no other source of income and was maintaining the family from the income generated from agriculture which was barely enough to feed the family. It was pleaded that he had taken loan of Rs.18,000/- from a bank which he could not repay. It was pleaded that the petitioner had refused to settle in the matrimonial home. It was denied that he had ever beaten her up. It was pleaded that false applications were given by the petitioner. It was pleaded that she remained in someone else's house for

three days in November, 2011 and after she had left they had made inquiries from her parental home and they had come to know that she had not reached the parent's house and therefore, a DDR was entered with the police on 09.09.2011.

Both the parties led evidence. The petitioner examined herself and her father while the respondent examined himself, his daughter and Ram Avtar. Documents R1 to R4 were tendered in evidence.

The trial Court after examining the evidence came to the conclusion that the petitioner had failed to give any reasonable cause for staying away from the matrimonial home. The instance cited by her had not been proved. The daughter came forward to support the father.

The parties were sent for mediation but it had failed.

I have heard the counsels of both the sides.

The counsel for the petitioner had urged that it was not possible for wife to live in the matrimonial home and she had no income and sufficient reason had been given by the wife to refuse to live with the husband, therefore, the wife was entitled to maintenance. It was urged that the husband had levelled allegations of unchastity which has not been proved and there was a reasonable excuse for her to stay away. It was urged that the husband had a huge piece of land and the eldest daughter was with the sister-in-law and it was the duty of the husband to maintain the wife. Reliance was placed upon *Smt. Khatoon Vs. Mohd, Yamin 1982(2) SCC 373, Sunita Kachwaha and others Vs. Anil Kachwaha 2015 AIR (SC) 554, Ananta Bhottamisra Vs. Smt. Saraswati Bhottamisra 1986(2) HLR 486 and Smt. Pramila Dei @ Kuni Vs. Sanatana Jena 1989(1) HLR 598.*

The submission on the other hand was that the petitioner did not take care of the children and it was the husband who was taking care of them and the petitioner had left the matrimonial home and even after three days, she did not reach her parent's house and therefore, a DDR report was lodged and no accusation was made and it was to show that she had stayed in somebody else's house for three days. It was urged that the husband was having a meagre income and was doing agricultural work and it is the wife who had stayed away from the matrimonial home without a reasonable cause and there was no reason for her to stay away and their marriage was over 20 years old.

I have gone through the statement of the parties and perused the documents placed on record.

The wife has complained that the husband used to beat her and she was thrown out of the matrimonial home. The couple had been married 20 years prior to the filing of the petition. The children born to the couple are studying in college and higher classes. The petitioner had referred to an instance of September, 2011 where she had said that some poisonous substance was mixed in her food and after eating she felt un-easy and threw the food outside and it resulted in the death of a stray dog. That is the bare statement without any supporting evidence. Admittedly, on a complaint made by the wife the husband was challaned under Section 107/151 Cr.P.C. Allegations were made therein that the husband used to drink and used to beat her. The allegations made therein were that an attempt was made to add poison to the vegetables/lentil and that the husband had added poison with a view to murder her. Kalandra Mark-A contains the same allegations which

have been made in the petition. The fate of the Kalandra is not known. The petitioner has kept that information away. The husband had produced the copy of the DDR to show that his wife had left home and had failed to reach her parent's house. A DDR was lodged on 09.09.2011. The children are living with the father. Shakuntla – RW3 who is 20 years old, stepped into the witness box and supported her father. She also mentioned that a person whose name is indicated in the affidavit had come to the house in the absence of her father and he stayed in the company of his mother on the first floor of their house and when their father came home and asked the petitioner, the petitioner got annoyed and rebuked her father and it was the mother who had created bad atmosphere in the family and the mother had no love and affection for them.

After having gone through the evidence and the material available on record, I find no infirmity in the findings arrived at by the Family Court. It is the petitioner who has stayed away from the matrimonial home without a reasonable cause. The children have also spoken against the mother. The daughter is old enough to understand. The petitioner has not explained where she had stayed for three days before reaching her parent's house in September, 2011. The reason for refusing maintenance are sound and there is no reason to upset the reasoned order.

The petition is dismissed.

27.07.2016

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No.