In the High Court of Punjab and Haryana at Chandigarh

Criminal Revision(F)-18 of 2015 (O&M)
Date of Decision: 16.09.2016

Aarti and another ....Petitioners

Versus

Sunit Kumar Gupta ....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Anurag Chopra, Advocate
for the petitioners.

Mr. Ankur Mittal, Advocate
for the respondent.

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ANITA CHAUDHRY, J(ORAL)

This revision is directed against the order dated 28.10.2014 vide which the Court declined to summon additional witnesses.

Aarti was married to Sunit in June 2006. A petition under Section 125 Cr.P.C. was filed by Aarti Gupta and the minor son in June 2013. The child is about six years old. The wife and the child are living separately since November 2012.

The trial had started and petitioner started leading her evidence. She submitted an application for summoning officers from the U.S. Consulate General, British High Commission and the Australian High Commission through their embassies in New Delhi. In routine, the expenses were assessed and the petitioner was allowed to deposit the expenses calculated to be paid as diet money etc. Summons were sent in routine which were not received back. During the proceedings, the petitioners highlighted that they had wanted to summon three witnesses and they wanted to summon the record from the embassies to see what all documents have been submitted while applying for visa. The Family Court dismissed the application stating that these were summary proceedings and there were other ways of summoning the witnesses and the applicant had not disclosed the specific documents which were required and the list of witnesses only mentioned that all documents concerning the declaration and the documents furnished by him from 2008 to 2018.

Aggrieved with that order, this petition has been filed and it was pleaded that the respondent in his written statement had admitted that he was a Chartered Accountant and his annual income was disclosed as Rs. 1,75,245/-. It was pleaded that they were unable to procure the complete evidence and the details regarding his financial position and the wife was not privy to the declaration made by the respondent to the income tax authorities and the bank accounts and upon acquiring information that the respondent has travelled she had sought to summon the officer incharge/dealing official/custodian from the Embassies of the three countries for producing the documentation and declaration submitted along with the application availing visa. It was pleaded that the husband had uploaded pictures on his Facebook account and, therefore, she had sought to summon the documents and they had deposited Rs. 1800/- for summoning the witnesses and summons were issued and the District Judge later on dismissed the application and it was a non-speaking order.

The Co-ordinate Bench at the motion stage had restrained the Court below from passing the final judgment. As of now, the petitioner has led her entire evidence and the evidence of the respondent is going on.

The respondent in his reply has submitted that the petitioner had not furnished any list of witnesses along with their petition and these were just delaying tactics. It was pleaded that the petitioner had given a complaint to the police and he was called in the enquiry and no action was taken and thereafter the petitioner filed the application under Section 125 Cr.P.C. before the Family Court, Ambala and the respondent was keen to settle the dispute, however, the petitioner was adamant and in 2014 he had filed a divorce petition on the ground of desertion and cruelty and the High Court has transferred that petition to Ambala. It was pleaded that the application given by the petitioner did not refer to any specific documents and she had already summoned the witness from the Income Tax Department but after summoning him, the witness was given up as unnecessary. It was pleaded that the trial Court had noted that the petitioner was unnecessarily delaying the proceedings and had passed an order on 31.8.2015 and had imposed costs and had given last opportunity. It was pleaded that the respondent had already submitted his income tax returns before the trial Court. It was pleaded that the petitioner had again approached the Court with an application for summoning the witnesses which was given in the list namely officials of the embassies which was rejected on 31.8.2015.

I have heard both the sides.

Admittedly, no list of witnesses was filed along with the petition filed under Section 125 Cr.P.C. The petition was filed in June 2013. The petitioners filed a list of witnesses in July 2014. No prayer for summoning the additional witnesses was made nor it was disclosed as to the purpose for which they were being called. The list of witnesses was filed which was allowed in routine and summons were also issued but service could not be effected. It came to the notice of the Court when the matter was taken up that it found that no details of the documents which were sought to be summoned had been indicated and the petitioner was summoning the record of 10 years to see whether the respondent had travelled abroad. The petitioner did not indicate the travel dates or the date on which visa was applied. The petitioner had filed the petition under Section 125 Cr.P.C. The petitioner has only to prove the income of the respondent. She had already summoned the official from the Income Tax Department but chose to give up the witness. I find no illegality in the order.

Finding no merit in the revision, the same is dismissed.

(ANITA CHAUDHRY)
JUDGE

September 16, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No