

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

**Criminal Revision (F) No.82 of 2016
Date of decision: 22.03.2016**

Parampal Singh

..Petitioner

Versus

Ajmer Kaur

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Sandeep Kumar Bokolia, Advocate
for the petitioner.

Daya Chaudhary, J.

This revision petition has been filed to challenge impugned order dated 14.01.2016 passed by the District Judge (Family Court), Barnala, whereby application filed by the respondent under Section 125 Cr.P.C. has been allowed.

Respondent-wife-Ajmer Kaur solemnized marriage with one Gurmail Singh and from the said wedlock, she gave birth to three children i.e., two sons and one daughter. Said Gurmail Singh died and thereafter, she performed second marriage with the present petitioner-Parampal Singh, who was unmarried and was working as Police SPO at Barnala. Both of them remained together and even cohabited as husband and wife but no child was born from their wedlock. She was harassed by the petitioner but by keeping in view the interest of the

children, she remained silent. The petitioner agreed to pay maintenance @ ₹1000/- per month and he appended his signatures on the writing but thereafter, he stopped to pay the said amount. Aggrieved, respondent-wife moved an application under Section 125 Cr.P.C. for grant of interim maintenance before the District Judge (Family Court), Barnala. The said application was contested by the petitioner and ultimately, the same was allowed vide order dated 14.01.2016 and an amount of ₹3000/- per month was awarded as maintenance to respondent-wife from the date of filing of the application.

Aggrieved by the aforesaid order of granting maintenance to respondent-wife, the present revision petition has been filed by the petitioner-husband on the ground that the application has wrongly been allowed.

Learned counsel for the petitioner submits that while passing impugned order, a photocopy of remembrance deed (Yadashnama) was marked as 'Mark-A' but the same was not considered by the trial Court. Learned counsel further submits that there was no marriage between the parties but they were residing together. Respondent-wife has stated in the application that she performed her second marriage with the petitioner but while appearing as PW1 she has stated that she had performed her second marriage with the petitioner in Kali Mata Mandir at Patiala. These two statements were contradictory and application for grant of

maintenance was filed just to extract money from the petitioner. Learned counsel also submits that it was clearly mentioned by the petitioner in his written statement that he never performed marriage with the respondent as he has performed marriage with one Amandeep Kaur but all these facts were not considered. The respondent-wife was not eligible for any maintenance under Section 125 Cr.P.C. as she was not his legally wedded wife. Learned counsel also submits that the order for grant of maintenance be set-aside.

Heard arguments of learned counsel for the petitioner and have also perused the impugned order of granting maintenance.

The only argument raised by learned counsel for the petitioner is that the respondent was not legally wedded wife of the petitioner and was not entitled for maintenance. A query was put to learned counsel for the petitioner as to why the petitioner agreed to pay an amount of ₹1000/- per month to the respondent-wife when she was not his wife. Learned counsel for the petitioner submits that the respondent was working as his maid and the amount was paid as remuneration by way of salary and that has wrongly been interpreted.

Learned counsel for the petitioner has not been able to show from any document that there was a relationship of employer and maid or the petitioner was married with some other lady.

The submission with regard to denial of relationship by showing any document to prove that the amount was paid as remuneration or otherwise and not as maintenance, cannot be

accepted. It has clearly been mentioned by the lower Court that on the basis of statements of witnesses, it has been proved that it was a case of second marriage with the present petitioner. Both the parties remained together in their matrimonial home as husband and wife and cohabited with each other at Barnala. Even it is clear that the amount was paid by the petitioner and has admitted his signatures even. It was mentioned in that writing that the petitioner will pay ₹1000/- per month to respondent-wife and she will not make any kind of interference in his life in case, he performs other marriage. Said document has also been proved with the help of pronote Ex.R-1 and receipt R-2. Even the petitioner was present when these documents were prepared.

Even if, it is accepted that no marriage was there between the parties but some understanding was there even then also, it is presumed that both the parties were living together as husband and wife and there was some relationship between them. If no relationship was there then why the respondent-wife will have any objection and why such undertaking was taken from the respondent.

In view of facts as mentioned above, it is clear that the respondent-wife has rightly been granted the maintenance and the same cannot be considered on higher side. Accordingly, the present revision petition being devoid of any merit is hereby dismissed.

22.03.2016
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(DAYA CHAUDHARY)
JUDGE