

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5917 of 2017
Date of Decision: 19.09.2017

Rekha

.....Petitioner

Versus

Ranjeet Yadav

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Jagjot Singh, Advocate for
Mr. Kunal Dawar, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed the order dated 04.03.2017 passed by District Judge, Family Court-II, Faridabad, whereby the evidence of the petitioner was closed by order of the Court.

[2]. Petitioner is wife of the respondent. Marriage was solemnized on 27.06.2007. One male child took birth out of this wedlock. In the year 2012, respondent/husband filed a divorce petition in which the petitioner/wife was proceeded against *ex parte* on 19.02.2013. Consequently, *ex parte* decree of divorce was passed on 23.05.2013.

[3]. Petitioner claimed that she got the knowledge of the said *ex parte* decree on 14.08.2014 from the reply filed by the

respondent in the petition under section 125 Cr.P.C. Thereafter, she filed an application under Order 9 Rule 13 CPC in the divorce petition.

[4]. On 19.02.2015, respondent/husband appeared in the proceedings under Order 9 Rule 13 CPC. The case was adjourned to 15.05.2015 and the issues were framed. Thereafter, the case was adjourned to 02.09.2015 for evidence of the applicant/wife. Some of the evidence was led and the evidence of the petitioner/wife was closed by order of the Court on 04.03.2017.

[5]. While issuing notice of motion on 04.09.2017, following facts were noticed in the order:-

“Petitioner filed an application under Order 9 Rule 13 CPC for setting aside ex parte decree of divorce dated 23.5.2013. Respondent appeared in the Court on 19.2.2015 and in due course evidence of the applicant started w.e.f. 2.9.2015. On 4.12.2015, case was transferred to another court and the case was adjourned to 23.3.2016. Affidavits of two witnesses, namely, applicant-petitioner Rekha and her brother Rama Kant Yadav were tendered in examination-in-chief. The cross-examination was deferred at the instance of the respondent. The case was adjourned for 25.7.2016. On the date fixed, the applicant was cross-examined and cross-examination of her brother Rama Kant Yadav could not be done. The applicant-

petitioner seeks indulgence of the Court for cross-examination of her brother Rama Kant Yadav and examination of her second brother Raj Parkash.

Notice of motion for 14.9.2017.

Dasti as well.”

[6]. Learned counsel appearing on behalf of the respondent has shown no objection qua cross examination of Rama Kant Yadav. He has contested qua the examination of second brother of the petitioner namely Raj Parkash.

[7]. Having considered the controversy between the parties, I deem it appropriate to give one opportunity to the petitioner for cross examination of Rama Kant Yadav and examination of Raj Parkash for which the trial Court shall fix an appropriate date. Examination of aforesaid witnesses would be at the cost of the petitioner without availing any process of the Court. Learned counsel for the respondent pressed for awarding cost against the petitioner. In view of relationship between the parties, I deem it appropriate not to impose any cost on the petitioner. Let the follow up action be done by the trial Court.

[8]. Disposed of accordingly.

September 19, 2017.

Prince

Whether reasoned/speaking

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No