

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

Crl. Misc. No. M-27554 of 2017 (O&M)  
Date of Decision: August 11, 2017

Raj Kumar

...Petitioner

Versus

Janak Dulari

...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Sandeep Godara, Advocate  
for the petitioner.

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**JAISHREE THAKUR, J. (Oral)**

The petitioner herein is aggrieved against the order dated 5.7.2017 passed by learned Additional Sessions Judge, Gurdaspur, upholding order dated 10.01.2017 wherein, the petitioner has been directed to pay a sum of Rs.3,000/- per month, as interim maintenance, in proceedings initiated under Section 125 Cr.P.C. by respondent Janak Dulari.

2. In brief, the facts as stated are that respondent-Janak Dulari filed an application under section 125 Cr.P.C claiming to be the legally wedded wife of the petitioner. It was alleged that a marriage was solemnized in the year 1990, out of which union a son was born. At the time of the marriage, she was informed that earlier Raj Kumar was married to one Darshana Devi, from whom a decree of divorce had been obtained. Later on, it transpired that the decree of divorce had never been obtained and

petitioner was residing with the said Darshana Devi. Claiming to be a destitute, with no individual source of income, an application under Section 125 Cr.P.C. was filed claiming maintenance for herself and her minor son. The Judicial Magistrate Ist Class, Gurdaspur, held the respondent entitled to a sum of Rs.3000/- per month, as interim maintenance, while dismissing the application qua son, since he had attained majority. Aggrieved against the said order a revision was preferred, which was dismissed.

3. Mr. Sandeep Godara, learned counsel appearing on behalf of petitioner, while challenging the impugned orders, vehemently argues that the respondent is not entitled to any maintenance since, she is not the legally wedded wife of the petitioner. In fact, she was a tenant of the petitioner and there was a dispute which arose between them on the basis of which, she proclaimed to be the wife of the petitioner only to harass him. In fact, the petitioner was married to one Smt. Darshana Devi in Batala District and they have three children out of the wedlock. It is further argued that there is no marriage certificate or any proof regarding marriage available on the record.

4. I have heard the counsel for the petitioner.

5. A perusal of the orders passed would reveal that both the courts below have considered the plea taken by the petitioner that there is no valid marriage between the petitioner and Janak Dulari. While considering the arguments raised, the courts have held that there is no requirement of strict proof of relationship of marriage at the first instance and the matter has to be proved by leading evidence. It was further held that even though, the applicant-respondent had not placed on record any certificate of marriage,

the fact that the petitioner had filed a civil suit seeking to restrain the respondent-applicant from alleging herself to be his wife, had been withdrawn by him could not be ignored.

6. The petitioner himself had filed a suit against respondent-Janak Dulari, seeking to restrain her from alleging herself to be his legally wedded wife. The suit was withdrawn by him without giving any evidence in the said matter. If the petitioner himself had some evidence that the respondent-applicant was not his legally wedded wife, the said suit would not have been withdrawn. It is also noted that only interim maintenance has been granted, while allowing the respondent-applicant to prove her case.

7. Therefore, while dismissing the instant criminal miscellaneous petition, it is directed that the Judicial Magistrate Ist Class, Gurdaspur, makes an effort to decide the question, whether the respondent-applicant is the legally wedded wife of the petitioner or not, as expeditiously as possible. However, it is also made clear that any observation made hereinabove not to be construed as an opinion on the merits of the case.

8. The petition stands dismissed, with the aforesaid directions.

**August 11, 2017**

*vijay saini*

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No