

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

-.-

Crl. Misc. No. M 35895 of 2016
Date of decision: 13.01.2017

Charanjit Kaur

..... *Petitioner*

Versus

Jasbir Singh

.....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sukhbir Singh Tiwana, Advocate
for the petitioner

Mr. Mewa Singh, Advocate
for the respondent

-.-

Rekha Mittal, J. (Oral)

The present petition directs challenge against order dated 20.08.2016 (Annexure P6) whereby evidence of the petitioner has been closed in proceedings filed under Section 125 of the Code of Criminal Procedure (in short, Cr.P.C.) for grant of maintenance to the petitioner-wife.

Counsel for the petitioner has fairly conceded that the petitioner was allowed several opportunities to adduce evidence but a serious prejudice shall be caused to her in case she is not permitted to examine herself as a witness. It is prayed that the petitioner may be allowed one opportunity to examine herself on the date fixed before the trial Court when otherwise, no evidence has been adduced by the respondent after evidence of the petitioner was closed by order.

Counsel for the respondent, on the contrary, has submitted that as the petitioner withhold herself from the witness box without any justifiable reason, she is not entitled to indulgence of this Court. It is further submitted that as the petitioner is guilty of delaying the proceedings, in case she is allowed an opportunity to appear in the witness box and eventually the petition for maintenance is allowed, she should not be allowed any maintenance for the period for which delay can be attributed to her.

I have heard counsel for the parties and perused the paper book particularly the order impugned.

Perusal of the records would reveal that the petitioner has prayed for grant of maintenance for herself and minor child born out of wedlock of the parties. Keeping in view the legislative intent and object of Section 125 Cr.P.C. coupled with the fact that a serious prejudice is likely to be caused in case the petitioner is not permitted to appear in the witness box to support her cause for grant of maintenance, in the interest of substantial justice, the petitioner is allowed one opportunity to examine herself as a witness, but subject to the following conditions:-

- 1) The petitioner shall ensure her presence before the trial Court on the date already fixed in the proceedings and examine herself as a witness; and
- 2) The trial Court at the time of final disposal of the petition shall examine if the petitioner is entitled to maintenance for the entire period by taking into consideration if delay in conclusion of trial can be

attributed to petitioner No. 1, if so, of what consequence
as one of the petitioners is a minor.

Disposed of accordingly.

(Rekha Mittal)
Judge

13.01.2017
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No