

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

-.-

CRM M 43986 of 2016
Date of decision: 26.05.2017

Bhajan Kaur

.....*Petitioner*

v

Hardial Singh

.....*Respondent*

Coram: HON'BLE MRS. JUSTICE REKHA MITTAL

-.-

Present: Mr. Gaurav Sharma, Advocate
for the petitioner

Mr. Neeraj Madan, Advocate
for the respondent

-.-

Rekha Mittal, J. (Oral)

CRM 17390 of 2017

Notice of the application to counsel for the non
applicant/respondent.

Heard.

Allowed as prayed. Annexure P8 is taken on record.

Main case

The present petition directs challenge against order dated
15.10.2016 (Annexure P5) passed by the Judicial Magistrate Ist Class,
Abohar whereby evidence of the petitioner has been closed by order.

Bhajan Kaur, the petitioner has filed an application under
Section 125 of the Code of Criminal Procedure (in short, Cr.P.C.) claiming
maintenance from the respondent-husband.

Counsel for the petitioner has submitted that though the Court
below has provided sufficient time to the petitioner to adduce evidence but

a serious prejudice would be caused to the petitioner in asserting her claim for maintenance in case, she is not permitted to appear in the witness box and depose in terms of averments raised in the application. It is further prayed that keeping in view the Legislative intent behind provisions of Section 125 Cr.P.C., the petitioner may be allowed one opportunity to examine herself on the date already fixed before the trial Court i.e. 31.05.2017.

Counsel for the respondent, on the contrary, would urge that as the petitioner failed to avail various opportunities granted for her evidence, she is not entitled to indulgence of this Court on any ground whatever.

I have heard counsel for the parties, perused the paper book and order dated 15.10.2016.

Be that as it may, counsel for the petitioner has fairly conceded that the petitioner was given enough time for examining her witnesses in support of her plea for assessment of maintenance. In case the petitioner is not permitted to appear in the witness box, it may be of serious consequence for adjudication of her right to claim maintenance from the husband. As per the settled position in law, provisions of Section 125 Cr.P.C. are benevolent social legislation, crafted with an intent to provide immediate succor to a destitute woman, neglected children and parents.

Keeping in view the serious consequence likely to be ensued for the petitioner on account of her failure to appear in the witness box coupled with avowed object of Section 125 Cr.P.C., it is expedient in the interest of justice that the petitioner is allowed one opportunity to tender herself in the witness box.

For the foregoing reasons, the petition is allowed; petitioner is

granted one opportunity to examine herself on 31.05.2017, the date already fixed before the trial Court. Failure of the petitioner to appear in the witness box on that date would entail dismissal of the petition.

(Rekha Mittal)
Judge

May 26, 2017
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