

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT  
CHANDIGARH**

**Criminal Revision(F) No.301 of 2015(O&M)**

**Date of Decision: April 5 , 2017.**

Suman ..... PETITIONER (s)

**Versus**

Ajit ..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Ramender Chauhan, Advocate  
for the petitioner.

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**LISA GILL, J.**

The petitioner is aggrieved of order dated 28.08.2015 passed by the learned District Judge (Family Court), Bhiwani dismissing her petition under Section 125 Cr.P.C.

Brief facts of the case are that, a petition under Section 125 Cr.P.C. was filed by the petitioner seeking maintenance at the rate of ₹7,000/- per month from the respondent. As per the averments in the petition, the petitioner's marriage was solemnized with one Bhim Singh son of Chander Bhan on 17.03.2010 according to Hindu rites and ceremonies. Bhim Singh was the elder brother of the respondent – Ajit son of Chander Bhan. Sufficient dowry alongwith other articles of domestic use were given at the time of petitioner's marriage with Bhim Singh. In-laws of the petitioner, it was submitted, were not satisfied with the dowry given in the marriage. A son was born out of this

wedlock on 14.03.2012 but he passed away on the same day. Bhim Singh, the petitioner's husband unfortunately died on 18.03.2012 due to electrocution. Kareva marriage of the petitioner, it is stated, was solemnized with her husband's younger brother i.e. the respondent Ajit on 04.05.2012 as per custom. Parties started living together as husband and wife. The petitioner was taken to her parental home by the respondent on 15.05.2012 and he promised to come and take her back after ten days. However, the petitioner was not taken back to her matrimonial home despite numerous requests. The petitioner's parents tried to prevail upon the respondent and his family members but to no avail. An application was presented by the petitioner on 26.11.2012 before the Protection Officer, Bhiwani. An application was also preferred by her before the Senior Superintendent of Police, Bhiwani on 07.02.2013 for taking necessary action against the respondent and his family members. The respondent, it was stated, withdrew from her society since 27.05.2012 without reasonable cause. The petitioner being an illiterate lady was not in a position to maintain herself. She is living at the mercy of her parents whereas, on the other hand, the respondent, an able bodied person possessed of moveable and immoveable properties alongwith agricultural income, is obliged to maintain the petitioner. It was prayed that a sum of ₹7,000/- per month be awarded as maintenance to the petitioner.

The respondent while admitting that the petitioner was married to his elder brother Bhim Singh on 17.03.2010, denied that any Kareva marriage was solemnized with the petitioner after the death of his brother on 18.03.2012.

The birth and death of a male child of the petitioner and his elder brother on

14.03.2012 is however admitted. It was submitted that the petitioner was taken back to her parental home by her father after the Chhamahi ceremony of the respondent's elder brother. A resolution of the respectable persons of the village to the effect that no Kareva marriage was performed between the petitioner and respondent was placed before the Protection Officer, Bhiwani. The petitioner demanded a sum of ₹50,000/- in cash from the respondent and stated that she would withdraw her application from the Women Cell in case the said amount was paid. The respondent submitted that the petitioner merely wished to extort money in an illegal manner. Evidence was led by the parties.

The learned trial court on considering the facts and circumstances of the case, dismissed the petition under Section 125 Cr.P.C. filed by the petitioner. It was concluded that marriage ceremony was not performed between the petitioner and the respondent therefore, it was not proved that marriage was solemnized. Aggrieved therefrom, present revision petition has been preferred by the petitioner.

Learned counsel for the petitioner vehemently argues that ample evidence has been produced by the petitioner to prove that Kareva marriage was solemnized by her with the respondent in May 2012. It is submitted that the petitioner herself stated about solemnization of marriage. PW2 to PW4 have stated that Kareva marriage of the petitioner was solemnized with the respondent. The petitioner, it is submitted, proved a complaint under Sections 498A/406/506 IPC against the respondent and his family members as well as a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005. All these facts clearly prove that the petitioner performed

Kareva marriage with the respondent. It is thus prayed that this petition be allowed and the impugned order dated 28.08.2015 be set aside.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

The petitioner has testified that she left her matrimonial home after about 10 to 15 days of the death of her husband Bhim Singh. She doubtlessly stated that Kareva marriage was performed with the respondent on 04.05.2012. However, it is not denied that PW2 Mohan Lal (father of the petitioner) PW3 Rajesh wife of Ramdhari and PW4 Ramesh son of Birbal have not stated that Kareva marriage of the petitioner with the respondent was solemnized in their presence. They have not mentioned the names of the persons who were present at the time of the alleged Kareva marriage of the parties. It is relevant to note that the petitioner herself after the death of her husband Bhim Singh and subsequent to alleged Kareva marriage with the respondent, opened a Saving Bank Account in PNB Uklana Mandi on 09.07.2012. She reflected herself to be the wife of Bhim Singh. In the nomination form, the respondent's name figured as the nominee and his relationship is reflected to be the petitioner's brother-in-law i.e. Devar. It is to be noted that as per the testimony of the petitioner, Kareva marriage was solemnized on 04.05.2012 i.e. prior to the opening of the said Bank account with the Punjab National Bank. It is thus rightly held by the learned trial court that in case Kareva marriage with the respondent was performed, she would have mentioned the name of her husband as Ajit i.e. the respondent. The respondent would not have been reflected as the brother-in-law/Devar in the nomination form.

The petitioner preferred a claim under the Rajiv Gandhi Family

Insurance Scheme before the SDM, Barwala on 16.04.2012. It is further noted that in the said matter the petitioner filed an affidavit (Ex.PW5/C) on 29.01.2013 before the concerned authorities stating that after the death of her husband she has not remarried or performed Kareva marriage. Learned counsel for the petitioner does not deny the execution of the said affidavit on 29.01.2013 by the petitioner. In this view of the matter, filing of a complaint under Section 498A//406/506 IPC against the respondent and his family members as well as a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 does not aid the petitioner in any manner. The filing of the said complaint did not in any manner establish or prove the solemnization of Kareva marriage with the respondent. Learned counsel for the petitioner fairly informs that the complaint under Sections 498A/406/506 IPC has since been dismissed. Thus, the learned District Judge (Family Court) has rightly held that the petitioner is not proved to be a legally wedded wife of the respondent. Therefore, she is not entitled to claim maintenance under Section 125 Cr.P.C.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 28.08.2015 passed by the learned District Judge (Family Court), Bhiwani which warrants interference by this Court in its revisional jurisdiction.

Consequently, this revision petition is dismissed.

( LISA GILL )  
JUDGE

April 5 , 2017.  
'om'

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