

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

Criminal Revision No. 2349 of 2017(O&M)

Date of Decision: August 21 , 2017.

Vikas Mehra PETITIONER (s)

Versus

Ms. Ginni RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Parveen K.Kataria, Advocate
for the petitioner.

LISA GILL, J.

The petitioner is aggrieved of order dated 14.06.2017 passed by the learned Judicial Magistrate First Class, Amritsar whereby the petitioner's application for dismissal of the petition under Section 125 Cr.P.C. filed by the respondent-wife, has been dismissed.

The respondent-wife preferred a petition under Section 125 Cr.P.C (Annexure P4) seeking maintenance from the petitioner. As per the averments in this petition, marriage between the petitioner and respondent-wife was solemnized on 17.10.2010 at Amritsar. Allegations have been raised regarding ill-treatment and harassment at the hands of the petitioner. It is contended that a huge amount was spent at the time of their marriage. Father of the respondent-wife passed away on 02.01.2012. Respondent-wife was allegedly turned out of

the matrimonial home on 17.01.2012. It is averred that she is unable to maintain herself. Therefore, maintenance to the tune of ₹50,000/- per month was claimed.

The petitioner moved an application for dismissal of this petition under Section 125 Cr.P.C. with the averments that marriage between the petitioner and respondent-wife was dissolved by a decree of divorce dated 14.11.2014 and the appeal preferred by the respondent-wife has also been dismissed on 11.02.2015. Moreover, the respondent-wife had refused to accept maintenance granted under Section 24 of the Hindu Marriage Act, 1955. She has sufficient means to maintain herself. The petitioner under Section 125 Cr.P.C. therefore deserves to be dismissed at the outset on this ground. The learned trial court rejected the said application vide impugned order dated 14.06.2017. Aggrieved therefrom, this petition has been filed.

Learned counsel for the petitioner vehemently argues that once divorce has been granted to the petitioner vide decree dated 14.11.2014 duly upheld by this Court, it is clear that the respondent-wife is not entitled for any maintenance under Section 125 Cr.P.C. Respondent-wife filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 which was dismissed as withdrawn. Her petition under Section 9 of the Hindu Marriage Act, 1955 was dismissed as well. Moreover, once she has refused to accept the maintenance and litigation expenses granted in the divorce proceedings, she is not entitled to any maintenance under Section 125 Cr.P.C.

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

The learned Judicial Magistrate First Class, Amritsar has

specifically observed that the refusal to accept maintenance was on account of stand of the respondent-wife that she always intended to live with the petitioner-husband in the matrimonial home and efforts were made to mediate between the parties. Refusal on the part of the respondent-wife to receive maintenance in the earlier proceedings, does not necessarily disentitle her to claim maintenance from the petitioner in future. Moreover, a divorced wife is also entitled to maintenance under Section 125 Cr.P.C. The petitioner however seeks dismissal of the petition under Section 125 Cr.P.C. at the very threshold which is not justified in the facts and circumstances of the case. Needless to say that all these aspects shall be looked into by the learned trial court at the appropriate stage/stages.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 14.06.2017 passed by the learned Judicial Magistrate First Class, Amritsar which calls for interference by this Court in exercise of revisional jurisdiction.

Accordingly, this petition is dismissed.

August 21 , 2017.
'om'

(LISA GILL)
JUDGE

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