

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

**CR-1370-2018 (O&M)
Date of decision : 27.2.2018**

Ashish Suhag

..... Petitioner

Versus

Smt. Sunita @ Madhu

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr.Vivek Khatri, Advocate for the petitioner.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 21.2.2018 (Annexure P-5) passed by learned Additional Principal Judge (Family Court), Faridabad vide which an application filed by petitioner for leading additional evidence to examine his mother and also to prove the CD showing the conduct of cruelty by respondents was dismissed.

It comes out that present petitioner filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955 which is pending since 11.7.2013 before learned trial Court (Annexure P-1). Evidence of the petitioner started on 9.9.2015 and it was continued for nearly for two years and on 19.7.2017, it was closed by counsel. Thereafter, respondent led the evidence and the same is also now closed. At that stage, application was filed for examining the mother of the petitioner and also to prove the CD, which is allegedly showing the cruelty committed by respondent on the mother of the petitioner.

I am of the view that provisions under Order XVIII Rule 17-A of the Code of Civil Procedure 1908, regarding additional evidence has already been omitted from the Code of Civil Procedure, 1908 vide Amendment Act, 1999. The evidence sought to be led was within the knowledge of the petitioner from the very beginning. In the application, the blame is sought to be put on the counsel which in the circumstance, is found to be unjustified. The petitioner led the evidence and voluntarily closed the same. Petitioner took nearly two years to complete his evidence. Now the case is ripe for arguments.

At this stage, there is no ground to allow any additional evidence which could have been led when the petitioner was leading his affirmative evidence.

Learned counsel for the petitioner relies upon an authority in **Hazara Singh versus Bachan Singh 1998 (2) RCR (Civil) 357** which is on the provisions of Order XVIII Rule 17-A of the Code of Civil Procedure which has since been deleted from Code of Civil Procedure. He further relies upon **Parvinder Singh versus Samrinder Kaur, (2014 (5) Law Herald 4000**, which does not lay down general law and confined to the facts of the said case. The authority cited in **Smt. Kapila Sharda versus Smt. Dhanpati Devi and others, 2015 (4) RCR (Civil) 736** is regarding provisions of Order XXIII Rule 1 of the Code of Civil Procedure, 1908.

In view of above, I do not find any illegality or infirmity in the impugned order dated 21.2.2018 (Annexure P-5) passed by learned Additional Principal Judge (Family Court), Faridabad.

Dismissed.

(KULDIP SINGH)
JUDGE

27.2.2018
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