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

**Civil Revision No.1621 of 2018
Date of Decision: 16.05.2018**

ANJALI

.....Petitioner

Vs

RISHIPAL SINGH AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Abhishek Goyal, Advocate
for the petitioner.

Mr. Vikram Singh, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has assailed the order dated 15.11.2017 passed by the Addl. Principal Judge, Family Court, Faridabad dismissing the application under Order 7 Rule 11 CPC for rejection of the petition.

In the application under Order 7 Rule 11 CPC, following grounds were taken:-

- "1. That the petitioners have with a malafide & ill intent to harass the respondent have filed the accompanying petition by concealment suppression and misrepresentation of facts. The parties are bound by a Deed of Settlement dated*

02-04-2012 which is enclosed as Annexure-P-1 alongwith the Written Statement filed. The said Deed of Settlement was executed between the respondent and the son of the petitioners namely Jatinder Singh which is binding on the petitioners as well. The petitioners who are aware of the terms of the Deed of Settlement dated 02-04-2012 including the terms relating to the custody/visitation rights of the minor children have used the Deed of Settlement to their advantage by filing a petition U/s 482 Cr.P.C. bearing Criminal Misc. No.M-36438 of 2012 (O&M) titled as Jatinder Singh & others Versus the State of Haryana and another. Copy of the petition is enclosed as Annexure-P-3 and the order passed by the Hon'ble Justice Sabina on 08-01-2013 is enclosed as Annexure P-4 alongwith the written statement filed.

- 2. That the petitioners by means of the present petition now are attempting to circumvent the aforesaid proceedings which have culminated before the Hon'ble High Court and are in the process attempting to harass the respondent and the children.*
- 3. That the petition therefore being an abuse of the processes of this Hon'ble Court is liable to be dismissed in view of the provisions of order 7 rule 11 CPC and specifically in view of preliminary objection no.1 of the written statement.”*

Perusal of the aforesaid grounds would show that none of the grounds falls under the ambit of Order 7 Rule 11 CPC.

The grounds on which the application is being pressed can be espoused by the petitioner during trial. Issues have already been framed vide the impugned order itself. Issue No.2 is in the context of maintainability of the petition. Onus is also on the petitioner herself.

The submission made by learned counsel for the petitioner that there was a compromise between husband and wife according to which custody of the child was given to the petitioner, would be subject matter of evidence to be led by the parties during course of the trial. The alleged reliance placed by the respondent on the said compromise during proceedings under Section 482 Cr.P.C., would be brought on record during course of trial.

Respondents are the grand parents of the child. The maintainability of the petition viz-a-viz. provisions of Guardianship and Wards Act, 1890 and Hindu Marriage Act would be appreciated by the trial Court at appropriate stage.

At this stage, I am of the considered opinion that as per the case set up by the petitioner in the application under Order 7 Rule 11 CPC, no indulgence can be granted for rejecting the petition at this stage. Consequently, the present petition is dismissed. However petitioner would be at liberty to press for framing of preliminary issue before the Family Court in

accordance with law.

In the event of filing such application, the same shall be decided by the Family Court without being influenced by any statement of fact made hereinabove.

May 16, 2018

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No