

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

CR No.4901 of 2016 (O&M)
Date of decision : 03.04.2018

Ravi Preet Singh

...Petitioner

Versus

Ravinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Bhoop Singh, Advocate for the petitioner.

ANIL KSHETARPAL, J.

The petitioner-husband is in the revision petition against the order dated 16.07.2016 passed by the learned trial Court while dismissing the application filed under Section 45 read with Section 65 (A) and 65 (B) of the Indian Evidence Act, 1872 for directing the respondent to give her specimen voice for comparison of the same with the already recorded voice of the respondent and for sending the sample voice as well as recorded voice to the Forensic Science Laboratory.

The petitioner-husband filed a petition under Section 13 of the Hindu Marriage Act seeking a decree of divorce on 07.08.2012. The petitioner-husband had asserted in the petition that multiple number of times the petitioner has recorded the voice of the respondent and wants to prove that the respondent uses abusive language against the petitioner and his mother.

In the written statement, the assertions made in the petition were denied. In the present case, the issues were framed on 02.09.2014 and the case was fixed for the evidence of the petitioner-husband on 25.09.2014. The petitioner-husband has already produced in evidence the alleged voice recorded by the petitioner in compact disc, its transcription and mobile phone in evidence. The petitioner, after a period of almost two years, filed an application on 18.03.2016 for issuing direction to the respondent to give her voice sample. The aforesaid application has been dismissed by the learned trial Court by passing a detailed order. Apart from other things, the learned trial Court has noticed that the petitioner-husband has already availed 23 opportunities for adducing his evidence.

Although, notice was issued in the revision petition, however, the respondent-wife has not come forward to contest the petition.

Learned counsel for the petitioner has been heard at length and with his able assistance, this Court has gone through the documents placed on file and the impugned order.

Learned counsel for the petitioner has submitted that the learned trial Court has wrongly recorded that the petitioner-husband has already availed 23 opportunities. He has produced the copy of the daily orders (zimani orders) passed by the Court and from reading of the orders, it is apparent that for all these adjournments, the petitioner was not at fault and the adjournments were mostly been prayed for on behalf of the respondent or her counsel. However, there is other side of this case. The divorce petition was filed on 07.08.2012, which is pending for almost 5 ½ years. The petitioner-husband was given opportunity to lead his evidence in

September, 2014. The case has been repeatedly adjourned for one reason or the other. The petitioner-husband was in knowledge of the facts and the evidence which were required to be proved by him. The petitioner-husband did not file an application even after knowing that in the written statement, the respondent-wife had denied having used the abusive language. The petitioner-husband did not file an application, even when the case was fixed for his evidence on 25.09.2014. The application was filed after a period of one year and six months. The Court by passing the impugned order has already noticed that the compact disc, transcription of the voice recorded and the mobile phone, have been produced in evidence and the Court would examine the same at the relevant time. The Court has only dismissed the application for directing the respondent-wife to give her voice sample for sending the same for comparison to the Forensic Science Laboratory.

In the considered opinion of this Court, if a party to the litigation wants to use the offices of the Court for getting a expert opinion, the party has to act promptly and move an application on the first opportunity. The Court is certainly within its discretion to refuse the request for such assistance, once the application has been filed after a long delay. As noticed earlier, divorce petition is pending for the last five years and eight months. The husband-petitioner has woken up after a long time particularly when the petitioner was given last opportunity to produce his entire evidence at his own responsibility vide order dated 18.02.2016. The application in question was filed before the Court on 11.03.2016. A look at the order-sheet would prove that the case was being adjourned for one reason or the other. Although, it is correct that the adjournments were being

sought by both the parties but at the same time, the petitioner-husband should have been more vigilant in moving an application at the time when the case was fixed for evidence of the petitioner. The petitioner was not justified in moving an application when the petitioner had been granted last opportunity to produce his entire evidence.

In view of the aforesaid, although for different reasons, this Court does not find any good ground to interfere with the impugned order passed.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

03.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No