

CRA-S-954-SB-2006 (O&M)

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

CRA-S-954-SB-2006 (O&M)

Date of decision : 12.10.2018

Sursati @ Sushil

... Appellant

Versus

Satpal and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.S. Singh, Advocate
for the appellant.

None for the respondents.

AMIT RAWAL, J.

The present appeal is directed against the order dated 04.02.2006 of the Sessions Judge, Hisar, whereby the application submitted under Section 340 read with Section 195 (b) (i) of the Code of Criminal Procedure for instituting a complaint under Section 193 read with Section 120-B of the Indian Penal Code, has been dismissed.

The appellant-Reena Yadav, disgruntled wife, had filed a petition for divorce against her husband. After filing written statement, the husband was proceeded *ex parte*. On examination of the witnesses, decree of divorce was passed on 06.12.2003. An application dated 02.01.2004 for recalling and setting aside the decree was submitted on behalf of the appellant as the earlier counsel had allegedly obtained her signatures on the blank papers, whereby a petition was instituted at the behest of the husband

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by giving incorrect particulars, therefore, a fraud had been committed and in such circumstances, the provisions of Code of Criminal Procedure and Indian Penal Code were invoked. It was averred that Satpal-respondent No.1 had made a false statement in the Court that he was maternal uncle of the appellant, but he was not. It is pertinent to mention here that during the pendency of the application, the appellant-Reena Yadav died and her mother submitted an application to contest the application.

On the basis of the evidence brought on record, learned Sessions Judge dismissed the application.

The contention raised in the present appeal is that the order, under challenge, is not sustainable in the eyes of law as the Court below had ignored the fact that Satya Parkash/respondent No.2 had obtained a decree of divorce by playing a fraud. Her statement recorded in divorce petition was under threat. Satpal/respondent No.1 had made a false statement that he was maternal uncle of the appellant, in fact, he was not, but was related to Satya Parkash/respondent No.2, her husband.

I have gone through the order and of the view that there is no illegality and perversity, for, decree of divorce was passed on the basis of the statement made by Reena Yadav. Reena Yadav, during her life-time, did not dispute that her husband had not appeared in the Court. Satpal son of Jiwan Ram had appeared in the divorce petition as PW2 and a question arose that whether his statement had affected the proceedings or not. It is a matter of fact that divorce had been granted keeping in view the statement of Reena Yadav and not on the basis of Satpal/respondent No.1, therefore, there was no forgery as sought to be projected. The Court after noticing the aforementioned fact, found it unnecessary to hold the preliminary enquiry

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as suggested in the application.

Keeping in view the aforementioned facts, I do not find any
illegality and perversity in the order, under challenge. No ground is made
out for interference. The present appeal is, accordingly, dismissed.

12.10.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**