

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-5593 of 2018
Date of Decision: 09.2.2018

Jagjiwan Kaur @ Jagjeevan Kaur and anotherPetitioners

Versus

Rajinder SinghRespondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sharad Verma, Advocate
for the petitioners.

ANITA CHAUDHRY, J

The petitioners have assailed the orders dated 20.1.2018 (Annexure P-1) and 6.12.2017 (Annexure P-5) vide which the application for additional evidence has been dismissed.

I have heard the counsel for the petitioner at great length.

The petition under Section 125 Cr.P.C. was filed by the wife claiming maintenance for herself and her child in 2005. The written statement admittedly was filed the same year. However, the matter is still pending before the Court. The zimni orders have not been made available therefore it cannot be seen as to how much time was taken by the petitioner to lead her evidence. At the fag end the petitioner moved an application to place on record copy of the divorce petition by way of additional evidence though the heading does not disclose the section under which the petition had been filed. Permission was sought to produce and prove the certified

while she was leading evidence and it was only recently that the divorce petition had been filed.

After seeking reply to the application, the trial Court dismissed the application noticing the arguments of the petitioners that they wanted to show the conduct of the respondent. The order notices the fact that this was their third application which had been filed for additional evidence on behalf of the petitioners. The Court recorded its reasons for dismissing the application stating that the application was moved to delay the proceedings and the evidence of the parties had been completed long time back. Dissatisfied with that, the petitioner filed a revision which too has been dismissed.

The petition has to be decided on the basis of the evidence with respect to the capacity of the parties. The additional evidence sought to be produced is not necessary for the issue before it.

The filing of a divorce petition by itself will not have any bearing on the petition laid before the Court seeking maintenance. The Court has to examine the capacity of the husband and the income of the other side and other related circumstances for grant of maintenance.

There is no infirmity in the order. The petition is dismissed in limine.

(ANITA CHAUDHRY)
JUDGE

February 09, 2018
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No