

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

**CRR(F)-124-2015 (O&M)
Date of decision : 13.08.2018**

Vinod Khosla

..... Petitioners

versus

Bindu Bala and another

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Gaurav Chopra, Advocate
for the petitioner.

Respondents in person with
Mr. A.S. Manaise, Advocate.

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ANITA CHAUDHRY, J

This revision is directed against the order passed by the Family Court, Bathinda who had allowed interim maintenance to the respondents.

A petition under Section 125 Cr.P.C. was filed by Bindu Bala and her minor son seeking maintenance from the respondent. It is pleaded that the husband was Food Inspector with Food Supply Office, Amritsar and was getting salary of Rs.45,000/- per month. The respondent denied the marriage and pleaded that Anshuman was not his son and there was no marriage and Bindu was earlier married to Sunil Kumar and a petition under Section 9 of the Hindu Marriage Act had been filed by Sunil against Bindu.

The parties placed some documents on record. The birth certificate of Anshuman was produced which showed the respondent to be the father. The Family Court allowed interim maintenance of Rs. 8,000/- per month to petitioner no.1 while the child was allowed Rs.5,000/- per month as interim maintenance, besides litigation expenses.

Counsel for the petitioner contends that the petitioner had denied the marriage and he also denies the relationship with the child and an FIR had been got registered by respondent no.1 and the police had investigated the matter and had found that there was no marriage and the FIR was cancelled. It was urged that respondent no.1 was married to Sunil who had filed a petition under Section 9 of the Hindu Marriage Act and the date of marriage between them was disclosed to be 06.10.2009 and therefore, he could not have been married her on 23.09.2009. It was urged that the petitioner was married to Rinku Rai and he had filed a petition seeking dissolution of marriage and an *ex parte* decree of divorce was passed in November 2011. Counsel further submits that the respondent had not produced any material before the Court that they were married.

On the other hand, counsel for the respondent urges that the petitioner is over-clever and he had created evidence citing names of fictitious persons and those petitions were filed by him and wrong fact has been mentioned and the challan has been presented against the petitioner and it was filed on 26.04.2017 and the cancellation report submitted by the police was not accepted and as per his instructions bailable warrants were issued against the petitioner and he was not appearing in the Court. The counsel states that since the marriage was old, the only evidence available with her was the photo album, which was taken away by the petitioner but the birth certificate records the name of the father as that of the petitioner. The counsel says that the petitioner has not approached any Court nor has offered DNA test. The counsel also says that dowry was recovered from the house of the petitioner in the FIR lodged at the instance of the respondent. Counsel further submits that Rinku never came forward to contest the

petition and it could be that a person with a fictitious name had been arrayed as the respondent in the divorce proceeding and wrong address was given, therefore, no-one appeared. The counsel says that respondent no.1 was not married to Sunil and this too is the brain child of the petitioner.

The petitioner disputes the marriage and also disputes that the child is his. The birth certificate records the name of the petitioner as the father. The grand father's name is also entered therein. Date of birth is recorded as 02.08.2010. The birth was registered in August 2010, when there was no dispute. The petitioner is serving in a government department and the parties are yet to lead evidence. Therefore, the petition is partly allowed. The order directing the petitioner to pay interim maintenance to the wife is set aside as parties are yet to lead evidence. The petitioner will have to deposit the maintenance for the child in the Court at the rate awarded by the Court below. Respondent no.1 would give surety while withdrawing the amount that in case her petition is dismissed then she would deposit the amount back with the Court.

In view of the peculiar circumstances, it is necessary to also make an order that the trial Court would expedite the case and dispose of the petition preferably within six months from receipt of order.

August 13, 2018

sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No