

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

FAO-M-339-2018 (O&M)
Date of decision: 13.12.2019

Jasvir Kaur

... Petitioner

Versus

Sarbjit Singh

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. M.S. Dhami, Advocate,
for the appellant(s).

Ms. Satpreet Grewal, Advocate,
for the respondent.

RAJAN GUPTA, J. (Oral)

Present appeal emanates from an order passed under Section 9 of Hindu Marriage Act whereby petition filed by respondent-Sarbjit Singh has been decreed. Same has been challenged by the appellant wife.

Primary contention of the appellant is that petition filed by respondent under Section 9 of Hindu Marriage Act is a counter blast to the petition under Section 125 of the Cr.P.C. filed by the appellant wife and children. According to him, the trial Court simply went on to pass a decree for restitution of conjugal rights without considering the entire aspect of the entire evidence on record.

Pursuant to order dated 22.11.2019, respondent is present in

Learned counsel for the respondent has submitted that there is no substance in the plea of the appellant. In fact, the respondent was not in a position to pay the amount of ₹ 3,36,000/- which has accumulated as maintenance under Section 125 of the Cr.P.C., for which, he had to undergo two months simple imprisonment. He is not even in a position to deposit ₹ 25,000/- awarded as litigation expenses while issuing notice of motion by this Court. According to her, respondent has no means to maintain the wife and the children. In fact, he no longer wishes to press his prayer for restitution.

Under the circumstances, the present appeal is hereby allowed and the decree under appeal is hereby set aside.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

December 13, 2019
Paritosh Kumar

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No