

CR-4315-2017(O&M) 1

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

**CR-4315-2017(O&M)
Date of decision: 08.01.2020**

Tanu Goyal

.....Petitioner

Versus

Ranjana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:- Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati, Advocate for the petitioner
Mr. Ravish Bansal, Advocate for respondent**

ANIL KSHETARPAL, J. (ORAL)

Present revision petition has been filed against order passed by learned District Judge, Family Court, Faridkot dated 11.5.2017 dismissing an innocuous application filed by the husband seeking correction/amendment of date of marriage in para 1 of the reply to the application for recall filed by the wife.

A decree for divorce on mutual consent was granted by the Court on 23.1.2015. An application for recall thereof was filed by the wife while asserting that the marriage took place between the parties on 23.10.2013. Such assertions were made in para 1 and 7(b) which are extracted as under:-

“1. That the marriage between the petitioner No.2 (hereinafter described as the applicant) with petitioner No.1 (hereinafter described as respondent) was solemnized according to Anand Karj

Ceremony on 23.10.2013 at Sri Ganga Nagar.”

“7(b) That the marriage between the parties was solemnized on 23.10.2013, whereas in the petition for divorce, it was wrongly mentioned as 23.1.2013. The parties were living together at the time of presentation of petition u/s 13-B of Hindu Marriage Act and during the pendency of the present application. The Celebration Certificate of marriage at Gurudwara Shri Guru Harkrishan Shaib, Jawahar Nagar, Shri Ganga Nagar is attached herewith.”

It may be significant to note here that when joint petition was filed, the parties had jointly pleaded that marriage between the parties had taken place on 23.1.2013.

In para 1 of the reply, on merits, the petitioner-husband has stated that para 1 of the application is correct. However, while replying to para 7 (b) it was stated as under:-

“7(b) That sub para (b) of the application as alleged is wrong and incorrect hence denied. The marriage was performed on 23.1.2013 and not on 23.10.2013 as alleged by petitioner No.1. The record regarding booking of Hotel for function clearly proves the date of marriage. The petitioner No.2 might have manipulated the alleged Certificate of Marriage from Gurudwara.”

Later on realising the mistake while replying to the

assertions with respect to the date of marriage in para 1 of the reply, an application was moved by the husband for permission to amend. The Court has dismissed the application on the ground that it touches the merits of the case and it is not a formal amendment.

It is strange that the Court of District Judge rather than doing substantive justice between the parties has gone into technicalities. It is apparent from the reading of the reply submitted by the husband that he has specifically stated, while replying to para 7(b) of the application that the marriage between the parties was performed on 23.1.2013 as was stated in the joint petition filed by both the parties under Section 13-B of the Hindu Marriage Act, 1955. He wants to correct the aforesaid error in para No.1 of the reply filed. Such amendment was only formal in nature and should have been allowed by the Trial Court rather than forcing the parties to come to High Court. Rules of procedure are made for advancing the cause of justice and not for scuttling it.

Needless to observe, the Court while finally adjudicating would be at liberty to decide the case on the basis of evidence available on record with respect to the date on which marriage between the parties was solemnized.

Keeping in view the fact aforesaid facts of the case, the order dated 11.5.2017 is set aside. Application for amendment is allowed.

Petition stands allowed.

08.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No