

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4394-2019 (O&M)
Date of Decision: 26.02.2020

Priya Chhabra

... Petitioner

Versus

Rajwinder Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Satinder Kaur, Advocate,
for the petitioner.

Mr.K.B. Raheja, Advocate,
for the respondent.

RAJIV NARAIN RAINA, J.(Oral)

1. The husband filed for divorce against the wife pleading grounds of dissolution alleging that wife was previously married and there was no disclosure of this fact. The petitioning wife filed a reply where she pleaded that she was married but the marriage had been dissolved by a customary Panchayati divorce. This meant that there is no decree of dissolution of marriage by the Court of competent jurisdiction and the marriage subsisted in the eyes of law. Today, the evidence has been recorded and the case is ripe for arguments. At the last movement, an application was moved by the wife under Order 6 Rule 17 CPC for amending her written statement. She wants to explain through the amendment that marriage it was, but it was a “paper marriage”. There was no

Anand Karaj ceremony or other ritual accompanying. In my view what she actually wants to infer is that it was not a consummated marriage.

2. Be that as it may, her application was opposed by the husband by filing reply. After hearing the parties, the learned District Judge, Sri Muktsar Sahib by her 7 page order dated 04.05.2019 has rejected the application by assigning the following reasoning in paragraph 4.

“If the proposed amendment is allowed then it will amount to withdrawing of admission by the respondent made in the earlier written statement. The perusal of earlier written statement filed by respondent reveals that it has been mentioned in Para 7 of preliminary objections that marriage of respondent and petitioner was solemnized in the year 2010 according to customary rites by way of Anand Karaj at Gidderbaah. In the last line of the said para it has been specifically pleaded that the respondent took customary Panchayati divorce from her previous husband and she was free to arrange second marriage. As such in the said written statement the respondent has clearly mentioned qua her first marriage and has mentioned Amandeep Boparai as her previous husband. In para No.2 and Para No.3 on merits also it has been specifically pleaded that the divorce had taken place as per customary rites by Panchayat and the said marriage ceased to exist at the time of the present marriage of respondent.”

3. The Judge has applied the law that an amendment cannot be allowed which amount to withdrawal of the admissions made in the earlier pleadings. No judgment needs to be refereed to as the proposition is settled. The principle involved is against retraction of a statement made in Court of

the nature of marriage to bring forth an entirely new story is impermissible in fresh pleadings. If parties were permitted to resile from their previous stands, it would make litigation unending.

4. For these reasons, the Learned District Judge has found no valid ground for allowing the application as it would amount to totally displacing the case of the petitioner which would cause irreconcilable prejudice to him. This would be like starting the litigation from the beginning and wiping out all the evidence collected in between. I have no reason to differ with the sound view of the learned District Judge as I find no legal error or infirmity in the well reasoned order.

5. The revision is accordingly dismissed.

6. No order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

26.02.2020

Satyawan

Whether speaking/reasoned Yes/No

Whether reportable Yes/No