

In the High Court of Punjab and Haryana at Chandigarh

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CRA-S-935 of 2022

Date of Decision: 19.1.2023

Ramnaresh Sharma

---Appellant

versus

Seema

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Dr. Payel Mehta, Advocate
for the appellant

JAGMOHAN BANSAL, J. (ORAL)

The appellant through the instant appeal is seeking setting aside of judgment dated 9.11.2021 whereby petition under Section 340 Cr.P.C. of the appellant has been dismissed by the Principal Judge, Family Court, Bhiwani.

Learned counsel for the appellant inter alia contends that trial court has miserably failed to consider and appreciate statement of the appellant. It is a case of mis-statement and concealment of facts still trial court has dismissed petition of the appellant.

I have heard counsel for the appellant and perused the record.

The relevant extracts of judgment of trial court read as:-

"Now, coming to the facts of the instant case, in the instant case, as per applicant's version, the respondent Seema has made an incorrect statement in the Court which can be proved from the statement of PW4 Sunit Sharma, Assistant Manager, Nainital Bank, Branch Ambala City who has proved Statement of Account of Seema Ex PW4/A to Ex PW4/C. A perusal of Ex.PW4/A reveals that it is an authority letter and Ex.PW4/B is the Loan Application and Agreement showing that on 15.08.2014 Seema has availed a loan in the sum of Rs. 8 lac. A perusal of the

statement of RW1 Seema reveals that she is an account holder in Nainital Bank, Branch Ambala City and Oriental Bank of Commerce and Union Bank of India but the amount is deposited in her name by her brother Rakesh Kumar and the same belongs to her brother. She has no concern with the amount deposited in the aforesaid bank accounts. She has executed a Power of Attorney in his favour in the year 2014. The respondent is the sole daughter in the whole family, so, the family used to purchase property and open accounts in her name.

9. *Even otherwise, a perusal of Ex.PW4/B and Ex PW4/C reveals that before her marriage the respondent Seema had raised loan to construct a house. Thus the bank account was opened before her marriage and she has already executed a Power of Attorney in favour of her brother prior to her marriage with the applicant authorizing her brother to operate the bank account opened in her name. Even otherwise, having a bank account does not indicate the source of Income or income capacity of at person.*

10. *Secondly, the applicant has alleged that she has an account in Oriental Bank of Commerce and Union Bank of India, however, as discussed above, Seema has disclosed that those accounts were opened before her marriage and belong to her brother for which she has already given a Power of Attorney to operate these accounts to her brother before her marriage with the applicant.* 11. *No doubt, in the cross examination, Seema has admitted that she is sleeping partner in Air Tech Cooling Solution but she has explained that it is her brother Rakesh who is the proprietor of this firm.*

12. *No doubt, in cross examination she has admitted that in the Loan Application, total assets worth Rs.20,74,753/- has been shown to belong to her but this fact is mentioned in her loan application moved by her before her marriage stage. and does not show her earning capacity at this stage.*

13. No doubt, PW1 Neelam Sharma has stated that Seema runs a Beauty Parlor in the name of 'Ayushi Beauty Parlor. However, at this stage, it can not be said that by running a beauty parlor the respondent is earning handsome amount and she has sufficient means for her survival. The main grievance of the applicant/petitioner is that the respondent has concealed the material facts from the Court regarding her sources of income. However, a perusal of para No. 3 of the Application under Section 24 of the Hindu Marriage Act, 1955 moved by respondent reveals that the applicant Ramnaresh has sufficient source of income whereas she is not having sufficient source of income and remains ill due to the reason mentioned in the application. Thus, from this pleadings, it is clear that she has not denied that she has no source of income but she has stated that the source of income is not sufficient for her survival. Under Section 340 of the Code of Criminal Procedure, proceedings should be initiated where the perjury appears to be deliberate and conscious and it is expedient in the interest of justice to initiate prosecution."

From the perusal of above quoted order and arguments of counsel for the appellant, this Court finds that present appeal sans merit and deserves to be dismissed. There seems no reason to interfere with the impugned order.

Dismissed.

(JAGMOHAN BANSAL)
JUDGE

19.1.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No