

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 114

Criminal Revision No.F-660 of 2023
Date of Decision: May 01, 2023

Nitin

..... PETITIONER(S)

VERSUS

Sakshi

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Ram Pal Verma, Advocate for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This petition is for setting aside the order dated 17.04.2023 passed by the Family Court whereby the petitioner/husband's application under Sections 9, 51, 45 of Indian Evidence Act and Sections 91, 258 of Criminal Procedure Code, requesting the Family Court to decide whether the respondent/wife is a girl or a transgender, has been dismissed.

2. As submitted by learned counsel for the petitioner, marriage between the parties was solemnized on 05.02.2018. They allegedly separated on 25.10.2018. The respondent/wife has filed an application/petition claiming maintenance under Section 125 Cr.P.C. on 19.04.2019. Reply of the same was filed by the petitioner, on 02.11.2022, wherein the only averment is that marriage between the parties was not consummated, as the respondent/wife failed to perform matrimonial duties. The application in question has been filed along with the reply, alleging the respondent is a transgender.

3. Matrimonial relations between the parties are not in dispute.

The allegation regarding the respondent being a transgender have been

levelled after about four years of marriage. Along with the reply to the application, the respondent had placed on record her medical examination report, including ultrasound report of uterus, claiming that she is both medically and physically fit.

4. Considering the facts and circumstances of the case, as also the medical report placed on record by the respondent, the Family Court rejected the application being not maintainable. Besides, it is also mentioned in the impugned order that a divorce petition filed by the petitioner on the same ground was dismissed as withdrawn on making a statement that he has decided to take divorce by mutual consent. But no compromise between the parties has statedly been arrived at.

5. There is no ground to interfere with the impugned order, which is well reasoned and based on relevant facts. It does not suffer from any error of law.

6. Dismissed.

(Tribhuvan Dahiya)
Judge

May 01, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No