

In the High Court of Punjab and Haryana at Chandigarh

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CRM-M-34652 of 2022 (O&M)

Date of Decision: 9.1.2023

Anita Rani @ Sunita Rani

---Petitioner

versus

State of Punjab and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. G.S.Sandhu, Advocate
for the petitioner

Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

The petitioner through the instant petition is seeking quashing of order dated 17.11.2021 passed by Additional Sessions Judge, Sri Muktsar Sahib whereby revision petition filed by respondent for setting aside of order of Magistrate has been allowed.

Learned counsel for the petitioner *inter alia* contends that trial court awarded a sum of Rs. 1500/- per month whereas revisionary court vide order dated 17.11.2021 has set aside the order passed by the trial court. The petitioner has no means of income and she is having a child. It is difficult to maintain because she is neither having house nor source of income. The respondent performed marriage with the petitioner and is trying to deflect from his responsibility.

I have heard learned counsel for the petitioner and perused the record.

The findings recorded by appellate court read as:-

11. Heard. Record perused. After hearing the rival contentions raised by learned counsel for both the parties and have also gone through the record and the case law relied upon by both the parties and in the considered opinion of this court, as per record and evidence proved on record, it is proved on record that in cross-examination of petitioner Anita Rani specifically admitted that earlier she filed a rape case against Dheeraj Kumar appellant/respondent. During the pendency of the case she effected compromise with Dheeraj Kumar and in which accused Dheeraj Kumar was acquitted in that case. Further it also admission on the part of Anita Rani that she claimed maintenance earlier against respondent for her illegitimate child and against the said order Dheeraj Ku- 11 mar filed revision in which she again effected compromise with the respondent Dheeraj Kumar in lump-sum Rs.2,50,000/- and said revision was also withdrawn and she further admitted that now she claiming marriage with Dheeraj Kumar on 10.05.2015. She specifically mentioned in her cross-examination as well as in her petition in para no.1, 2, 3, 4 and 5 as she claimed that again she solemnized the marriage with Dheeraj Kumar in Gurudwara Sahib, Sri Muktsar Sahib but in her cross-examination, she admitted that only one friend attended the marriage. No photograph were clicked nor she invited any

relative, even she not informed about her marriage nor she also invited her widow mother and as per Anita Rani, she exchange Garlands with Dheeraj Kumar in Gurudwara Sahib. Meaning thereby, she not able to prove her marriage with Dheeraj Kumar at any point of evidence on record. However, she admitted of the facts in her pleading in para no.1, she lodged FIR No. 112 under section 376 of IPC in the year 2004. Thereafter, she effected compromise with Dheeraj Kumar and she gave birth to female child on 11.12.2005 and she also admitted earlier she filed petition under section 125 of Cr.P.C in the year 2009. Further perusal of the said order under section 125 Cr.P.C passed by the learned trial court, it is specifically held that her child was declared as illegitimate child and court granted Rs.1500/- per month to the said illegitimate child as maintenance allowance from Dheeraj Kumar and thereafter, she specifically admitted in the pleadings in her petition that on 21.11.2014 in a revision petition filed by the Dheeraj Kumar, she again effected compromise and received Rs.2,50,000/- lumpsum on behalf of her daughter from Dheeraj Kumar and thereafter, in para No. 5, she 12 specifically claimed that she solemnized th marriage that respondent Dheeraj Kumar on 10.05.2015 but she failed the prove this fact by leading cogent evidence. She even solemnized the marriage with Dheeraj Kumar. The learned lower court wrongly appreciate the evidence, even no single an iota of evidence on record she solemnized marriage with Dheeraj Kumar. 12 On the other hand, respondent

Dheeraj Kumar duly proved that he was married person having two minor school going children. All the records duly proved by the respondent Dheeraj Kumar regarding their children studying in the school, ration card, identity card, adhar card as tendered in evidence by the respondent that he was already married having two minor children and enjoying peaceful life with the family. It is only Anita Rani who is time to time again and again interfered in the life of Dheeraj Kumar. The learned lower court wrongly awarded maintenance to Anita Rani by not considered the evidence on the record as she is not proved the marriage with Dheeraj Kumar by leading cogent evidence and failed to prove her case and the case law relied upon by the learned counsel for the respondent Anita Rani are not supported the case of the revisionist as the facts of the same are different. The learned lower court passed the impugned order wrongly without any justification and the order is hereby ordered to be set aside. Consequently, the revision petition filed by Dheeraj Kumar is allowed and revision petition filed by Anita Rani against Dheeraj Kumar for enhancement of the maintenance is without any justification and consequently the appeal/revision filed by Anita Rani is hereby ordered to be dismissed. Copy of this order be also placed 13 in other criminal revision no. CRR/90/2018 filed by petitioner/applicant Anita Rani. Copy of this order be sent to the learned Trial Court. Record of lower Court be returned. File of the revision petition be consigned to the Record Room.

From the perusal of findings recorded by revisionary court, it comes out that petitioner effected compromise with the respondent and got lump sum amount of Rs. 2.5 lakh with respect to maintenance. The petitioner has failed to prove her marriage with the respondent. The petitioner has compromised with respondent on two different occasions and got compensation from him. This court does not find any infirmity in the order passed by revisionary court

In view of the above, the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

9.1.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No