

2023:PHHC:070285

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

CR-5262-2019 (O&M)

Date of Decision: May 15, 2023

Harish Batra

...Petitioner

Versus

Ruchi

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Petitioner-in-person along with
Mr.R.S.Bains, Senior Advocate with
Mr.Aman Raj Bawa, Advocate.

Respondent-in-person along with
Mr.Deepak Girotra, Advocate

ARCHANA PURI, J.

Challenge in the present petition is to the order dated 23.07.2019 passed by learned Addl. Principal Judge, Family Court, whereby, an application for summoning of the documents, as detailed in the application itself, was dismissed.

During the pendency of the petition under Section 13 of the Hindu Marriage Act, when the case was pending for cross-examination of the respondent-wife, who was petitioner before the Family Court, a counter claim was filed by the present petitioner-husband and he also filed an application for summoning of the documents. In the application, it was

averred that it was necessary and expedient in the interest of fair trial and justice, that the requisite documents, the detail whereof is hereinafter given, are essential for effective cross-examination of the respondent-wife:-

(i) Record of marriage dated 29.11.2012 of petitioner and respondent including affidavit, application for permission, application form and other documents submitted by the petitioner Ms.Ruchi to Arya Samaj Mandir, Guru Harkishan Marg, Raja Park Chowk, Shakur Basti, Rani Bagh, Delhi-110034 through its officer bearers viz., President (Mr.Som Nath Puri, Mobile No.9811524440), Secretary (Mr.Manohar Lal Taluja, Mobile No.8447419636 & 8459800699) or Office Prabandhak (Mr.Maithali Sharma, Mobile No.9871294114).

(ii) Complete file record of Ph.D. registration & award to petitioner Ms.Ruchi from Commerce Department, MDU, Rohtak (Reg. No.99-IGR-660, Commerce Department, Year: 2013) from custodian of record Assistant Registrar (R&S), Mahrishi Dayanand University, Rohtak-124001.

(iii) Complete record pertaining to documents submitted by petitioner Ms.Ruchi for selection to the position of Extension Lecturer in year 2015 and record pertaining to emoluments paid to petitioner Ms.Ruchi as Extension Lecturer by Govt. P.G. College for Women, Rohtak from Principal, Govt. P.G. College for Women, Near Sonipat Stand, Opp. D.C. office, Rohtak-124001.

However, vide impugned order, the aforesaid application was dismissed by the Family Court, by making observations that petitioner-husband had been filing applications after applications and had been delaying the matter. The counter claim was filed only after tendering of the evidence by the respondent-wife, in her examination-in-chief. Also, therein, it was also observed that a number of months have passed by and the petitioner-husband could easily avail certified copies of the desired documents, which he intends to put to the respondent-wife, for her effective cross-examination. Furthermore, it was also observed that the Court is of

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the view that petitioner-husband may apply for certified copies of the desired documents or he may examine the desired witnesses, as his own witnesses. Upon these observations, the aforesaid application was dismissed.

Learned counsel for the parties heard.

At the very outset, it is pertinent to mention that case was at the stage of recording of the cross-examination of respondent-wife, when the application, in question, was filed. Before filing of the application for summoning of record, an attempt was made by the petitioner-husband to secure the record under RTI Act. A request for documents/information under RTI Act was filed by the petitioner-husband. Annexure P-7 relates to the documents, as sought to be summoned at Sr.No.1 of the application. However, the said application was declined being Third Party Information, vide letter dated 24.05.2019, copy whereof is Annexure P-8. Thereupon, the petitioner-husband also filed an appeal, copy whereof is Annexure P-9 and the said appeal was also dismissed, vide order dated 16.07.2019, whereby, inability was expressed to provide the information, being Third Party Information, which is exempted from disclosure.

So far as, summoning of other record as mentioned in the application is concerned, the same does not fall within the purview of RTI Act.

Even though, in the impugned order, it has been observed that the petitioner is in the habit of filing the applications after applications and delaying the matter, which fact, has also been emphasized by learned

counsel for the respondent, during the course of arguments, in the present petition, but however, simply on the score of several applications, having been filed, does not give rise to deprive the petitioner of his right, to the summon the record, for conducting the cross-examination of the witness. Even though, it is submitted that said record could be summoned, when the case is posted for the evidence of the petitioner-husband, but however, the aforesaid submission is devoid of merit.

It is pertinent to mention that it is the statement of the respondent-wife, which is being recorded before the Family Court and for conducting of her effective cross-examination, the aforesaid documents are required. It is only at this stage, while conducting the cross-examination, the petitioner-husband shall be in a position to rebut the allegations, as levelled against him, in the petition for divorce filed by respondent-wife.

Even though, it has been observed that certified copies could have been availed, but however, the information, as such, has not been given, on account of the same being exempted under RTI Act and furthermore, the information relating to the record available with Arya Samaj Mandir, also does not fall within the purview of RTI Act.

In the given circumstances, the requisite record ought to have been summoned, so as to facilitate the conducting of the effective cross-examination of the respondent-wife, at the behest of the petitioner-husband. Thus, learned Family Court fell in error, while dismissing the application in question.

Accordingly, the present revision petition is allowed and the impugned order dated 23.07.2019 is hereby set aside and the requisite record, as mentioned in the application (Annexure P-10), be now summoned by the Family Court, at the behest of the petitioner-husband.

May 15, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No