

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

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CRM-M-45476-2022

Date of Decision: 20.04.2023

Lekha S. and Another**...Petitioners****Versus****A.K. Kalesh Kumar****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Suman Jain, Advocate for the petitioners

Mr. J.K. Goel, Advocate with

Mr. Shvetanshu Goel, Advocate for the respondent

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking quashing of order dated 13.09.2022 (Annexure P-1) whereby Principal Judge, Family Court, Gurugram has ordered to close evidence of the respondent without adjudicating applications of the petitioner under Section 91 Cr.P.C and seeking permission to cross-examine the respondent.

2. Learned counsel for the petitioners *inter alia* contends that petitioner No.1 has preferred petition under Section 125 Cr.P.C. seeking maintenance from her husband-respondent. The respondent during the course of proceedings cross-examined the petitioner. The petitioner, after completion of cross-examination, moved an application under Section 91 Cr.P.C. seeking direction to the respondent to produce documents as mentioned in the application. The petitioner further moved an application seeking permission to cross-examine the respondent, however, the Trial

Court, without adjudicating these applications, has closed evidence of respondent.

3. Learned counsel for the respondent submits that petitioner was supposed to file a petition under Article 227 of Constitution of India and petition under Section 482 Cr.P.C. is not maintainable. The petitioner cannot claim herself to be aggrieved from order dated 13.09.2022, thus, present petition is not maintainable.

4. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

5. The proceedings pending before the Trial Court are under Section 125 Cr.P.C. The procedure followed by the Trial Court while adjudicating application under Section 125 Cr.P.C is procedure prescribed under Criminal Procedure Code. This Court is of the considered opinion that contention of the respondent that petitioner was supposed to file a petition under Article 227 of the Constitution of India instead of petition under Section 482 Cr.P.C. cannot be countenanced. The limited prayer of the petitioner is that his applications have not been adjudicated.

6. Without commenting upon merits of the applications, this Court finds that it would be in the fitness of things and interest of justice, if Trial Court is directed to adjudicate applications of the petitioner in one or another way. The respondent would be at liberty to raise all his pleas before the Trial Court at the time of adjudication of these

applications and further he would be at liberty to avail remedy against the order(s) passed by the Trial Court, as permissible by law.

Accordingly, the present petition is disposed of with a direction to the Trial Court to adjudicate applications, Annexure P-12 & P-13.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

20.04.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>