

Sr.No.107

2023:PHHC:157416

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

**CRM-50985 of 2023 in/and
CRR-F-1665-2023(O&M)
Date of decision:07.12.2023**

Indervir Singh

.....Petitioner

Versus

Harpreet Kaur and other

.....Respondent

CORAM: Hon'ble Ms. Justice Harpreet Kaur Jeewan

Present: Mr. Imran Farooqi, Advocate
for the petitioner.
(Counsel appeared through Video Conferencing)

Harpreet Kaur Jeewan, J.(Oral)

CRM-50985-2023

Present application has been filed for preponing the date of hearing of the main petition to an early actual date.

For the reasons mentioned in the application, the same is allowed. The date of hearing of the main petition is preponed to today and the case is taken on board.

CRR-F-1665-2023(O&M)

1. Prayer in the present revision petition is for setting aside the order dated 27.10.2023 passed by Family Court, Sangrur whereby the application filed by the petitioner for examination of respondent No.3(who was one of the petitioner in the application filed under Section 125 Cr.P.C) was dismissed.

2. Learned counsel for the petitioner submits that the marriage between the parties was solemnized on 28.09.2009 at Baddowal, Ludhiana. Parties were blessed with two children who are respondents No.2 and 3 in the present petition. Respondent No.1 filed a petition under Section 125 Cr.P.C against the petitioner. The petitioner

wanted to summon respondent No.3 as his witness which was essential due to discovery of certain facts that in the school records, the name of the father of the child i.e. respondent No.3 has been altered presumably under the influence of respondent No.1 who is in association with her second husband. However, denial to examine the said witness resulted in failure of justice. As such, the impugned order is liable to be set aside.

3. Respondent No.3 who is minor child of parties is in custody of respondent No.1-wife. Petitioner wants to examine his minor son in order to prove the school records alleging that the name of the father in the school records has been changed. The Family Court has dismissed the said application on the ground that the petitioner is bound to stand on his own legs by proving his defence and he cannot call the opposite party as a witness to prove his case. It was also observed that the child is of tender age and living under the guardianship of his mother and there is no justifiable ground with the petitioner to cite one of the opposite party as a witness (respondent No.3). The proceedings under Section 125 Cr.P.C are summary in nature and there is no necessity for calling the petitioner (respondent No.3) who is of tender age especially when the respondent can easily and viably prove his defence by way of other independent evidence.

4. I do not find any illegality or irregularity in the findings arrived at by the Family Court, Sangrur. The school records are presumed to be with the school authorities and not with the minor child. The application appears to have been filed just to prolong the litigation, unnecessarily by calling a minor child in the Court which is not in the interest of a child, as such present petition has no merits and the same is accordingly dismissed.

7th December, 2023

Shivani Kaushik

Whether speaking/reasoned

Whether Reportable

[HARPREET KAUR JEEWAN]

JUDGE

Yes/No

Yes/No