

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

**CRR(F)-1676-2023 (O&M)
Date of decision: 29.11.2023**

AVTAR SINGH

.....Petitioner

versus

KULVIR KAUR AND ANR.

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Lupil Gupta, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present revision petition filed by the petitioner is for setting aside the order dated 13.10.2023, passed by the Court of learned Additional Principal Judge, Family Court, Bathinda, whereby the application filed by the petitioner seeking permission to examine the Fingerprint and Handwriting Expert, has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner has met respondent No.1 in Dera Sirsa and only a ceremony of DIL-JOD Mala was performed and no other ceremony was performed. Being misguided by followers of Dera Sirsa, the petitioner filed a petition under Section 9 of the Hindu Marriage Act. However, when the petitioner came to know that the said ceremony is not a valid marriage according to Hindu Marriage Act, he suffered a statement before the learned trial Court seeking permission to withdraw the said petition.

3. Learned counsel for the petitioner further contended that respondent No.1 filed a petition under Section 125 Cr.P.C. seeking maintenance from the petitioner with the allegations that marriage between the petitioner and respondent No.2 was solemnized on 27.01.2011 at Dera Sacha Sauda, Sirsa and out of the said

has been deserted by the petitioner. It was further contended that on 24.04.2023, when the statement of the petitioner was recorded, he came to know that the reply filed on his behalf in the said Court, does not bear her signatures. As such, he filed an application seeking permission to examine the fingerprint and handwriting expert to compare his admitted signatures with the signature on the reply alleged to have been filed on behalf of the petitioner. However, the said application was dismissed by the learned Family Court, Bathinda. As such, the valuable rights of the petitioner have been infringed.

4. I have considered submissions of learned counsel for the petitioner and gone through the paper book.

5. The prayer for examination of fingerprint and handwriting expert was declined by the learned Family Court, Bathinda on the ground that the petitioner has taken the stand for the first time on 24.07.2023 that the reply filed to the petition under Section 125 Cr.P.C. does not bear his signatures whereas, the petition was filed in the year 2017. The relevant portion of the order passed by the learned Family Court, Bathinda is as under:-

“xxx xxx xxx xxx

“Respondent through Sh. Manjit Kumar Dhamija, Advocate appeared on 04.12.2017. Reply to petition under Section 125 Cr.PC. was filed on 27.02.2018. Cross-examination of Kulvir Kaur AW1 was conducted on 23.08.2018. Cross-examination of Manpreet Singh AW2 was conducted on 06.12.2018. No suggestion was put to AW1& Aw2 by Avtar Singh (applicant/ respondent) that written statement/ reply filed on 27.02.2018 did not bear the signatures of Avtar Singh (respondent). Avtar Singh was examined in chief on 24.07.2023. In affidavit Ex. RW1/A, took the stand that reply did not bear his signatures. Said stand was firstly taken on 24.07.2023. On cross-examination, Avtar Singh admitted that he filed reply in the case but same was without his consent. He did not state that reply was not filed by him. He admitted part of reply but denied that entire reply was with his consent. He admitted that he had not filed any complaint against Advocate nor filed application for amendment. If reply filed on 27.02.2018 did not bear his signature, he ought to have filed complaint against Advocate but was not filed. He admitted that a petition under Section 9 of HMA was filed. Copy of same is Ex.CX. Ex.CX makes out that he claimed marriage with respondent on 27.01.2011. Same date 27.01.2011 is claimed by Kulvir Kaur. Kulvir Kaur admitted her marriage with Avtar Singh. Admission of part of contents of written reply, delay in taking the

stand that written reply was not bearing the signatures of Avtar Singh and not filing complaint against Advocate makes it amply clear that stand of Avtar Singh (applicant/ respondent) that written reply does not bear his signatures is without substance.”

xxx xxx xxx xxx”

6. The petitioner has admitted his marriage in the petition filed under Section 9 of the Hindu Marriage Act, 1955. He has engaged a counsel who appeared on behalf of the petitioner on 14.12.2017 in the petition filed under Section 125 Cr.P.C. and even the reply was filed. Petition under Section 125 Cr.P.C. was filed on 27.02.2018. For the first time, in July 2023, the petitioner has taken the stand that the said reply does not bear his signatures, which is after a period of 5½ years from causing appearance through his counsel and filing reply to the said petition. During all this period, the petitioner was aware that the said petition has been filed. Even the statements of witnesses examined by the respondent-wife i.e. AW-1 and AW-2 were recorded and these witnesses were cross-examined on behalf of the petitioner. However, during this period, no such plea was raised.

7. The application filed by the petitioner seeking permission to examine the Fingerprint and Handwriting Expert, is an afterthought merely to wriggle out of the admissions made in the reply.

8. Keeping in view the aforesaid circumstances, the application filed by the petitioner has rightly been dismissed by the learned Additional Principal Judge, Family Court, Bathinda. The present revision petition filed by the petitioner has no merits, as such, the same stands dismissed.

(HARPREET KAUR JEEWAN)
JUDGE

29.11.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No