

**CR No.3435 of 2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.130****Case No. : CR No.3435 of 2024****Date of Decision : May 30, 2024**

Shefali Walia

.... Petitioner

vs.

Naresh Kumar Walia and another .... Respondents

**CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.**

\* \* \*

Present : Mr. Surinder Gandhi, Advocate  
for the petitioner.

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**GURBIR SINGH, J. :**

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 19.07.2023 (Annexure P-1), passed by learned Additional District Judge, Chandigarh. Further challenge is to the statement of respondent no.2, recorded on the basis of order dated 19.07.2023 by the Court Commissioner, which is alleged to be against the provisions of Section 22 of the Hindu Marriage Act, 1955 (hereinafter referred to as – the Act).

2. The facts, in brief, which are necessary for disposal of the present revision petition, are that respondent no.1 filed a divorce petition dated 24.05.2018 against the petitioner. The same is pending in the Court of learned Additional District Judge, Chandigarh, for evidence of the petitioner.

On 19.07.2023, evidence of Sudhir (RW-1) was recorded but he was



examined against the provisions of Section 22 of the Act. On 12.10.2023, an application was moved by the petitioner for conducting the proceedings 'in camera'. Another application was also moved by the petitioner for striking off the defence and dismissal of divorce petition. The learned Court below appointed Court Commissioner to record the evidence of the witness. The file was returned by the Court Commissioner along with examination of RW-1 Sudhir. It is alleged by learned counsel for the petitioner that on that day, there were number of persons accompanying the respondents and proceedings were conducted in the presence of all those people, whereas the proceedings should have been recorded 'in camera' as the case relates to adultery. The dignity of a woman and affirmative rights conferred on her by the Constitution cannot be allowed to be abrogated even for a moment. If one of the parties desires that the proceedings should be held 'in camera', then the learned Family Court has no option but to so direct. Without deciding the application for recording the proceedings 'in camera', the entire evidence of respondent no.2 has been concluded. It has, therefore, been prayed that the order dated 19.07.2023 and subsequent order dated 12.10.2023, passed by learned Additional District Judge, Chandigarh be set aside and statements of respondent no.2, recorded by two separate Court Commissioners on the basis of order dated 19.07.2023 and 12.10.2023, be also declared null and void. It has further been prayed that direction be issued to the concerned Court to record the entire evidence of respondent no.2 afresh 'in camera' by the Court itself and proceedings in the matter be also stayed during pendency of the present revision petition.



3. I have heard learned counsel for the petitioner and perused the case file.

4. As contended herein above, divorce petition is pending between the parties, which has been filed by respondent no.1 – husband. The same is at the stage of recording evidence of petitioner – wife. One RW was present in the Court of Additional District Judge, Chandigarh on 19.07.2023 and the said Court passed the following order :-

*“RW-1 namely Sudhir is present and cross-examined by the petitioner. Learned counsel for respondent no.1 seeks adjournment for his cross-examination. At request, be cross-examined on 22.08.2023, remaining respondent evidence be also produced on date fixed.”*

5. On 12.10.2023, the Court passed following two interim orders :-

*“RW namely Sudhir is present. Ms. Ravinder Kaur, Advocate is hereby appointed as Court Commissioner to record the evidence of this witness. Her fee is assessed as Rs.200/- to be paid by the claimants. File be handed over to the Court Commissioner to record the evidence of the witness in the Court itself.”*

**xx      xx      xx      xx      xx      xx**

*“File returned by Court Commissioner alongwith examination of RW-1 Sudhir. Two applications i.e. one for conducting the case proceedings in camera and other for striking off the defence and dismissal of the divorce petition has been filed. Copy supplied. Reply to said application be filed on 14.11.2023. Respondent evidence be also produced*



*on the date fixed.”*

6. From the perusal of interim order dated 12.10.2023, it is clear that statement of RW-1 Sudhir is already recorded and on receipt of file from Court Commissioner after recording the statement of RW-1 Sudhir, an application for conducting the proceedings of the case ‘in camera’ was filed. It is not clear if objection was earlier raised that proceedings of the case be held ‘in camera’. No further proceedings have been conducted by the Trial Court. In a matrimonial dispute, when objection is raised or any application is filed for conducting proceedings ‘in camera’, then Trial Court is duty bound to dispose off such application first and then to proceed further with the trial of the case. Since application for conducting proceedings ‘in camera’ is pending disposal, so, learned Trial Court is directed to decide the application dated 12.10.2023, moved by the petitioner under Section 22 of the Act for conducting the proceedings of the case ‘in camera’ before further proceeding in the matter.

7. The petitioner has prayed that evidence of respondent no.2, recorded as RW-1, be declared null and void on the ground that his evidence was not recorded ‘in camera’. It is debatable if statement of witness/party, after recording, can be declared null and void by the Court in a petition under Article 227 of the Constitution of India. If any opinion is given at this stage, it may cause prejudice to the petitioner. Evidence of RW-1 has already been recorded. The petitioner is free to move application, raising all objections, before the concerned Court. In case, any such application is moved, the concerned Court shall decide the same in accordance with law.



8.       The present revision petition stands disposed of in the above terms.
9.       Pending applications, if any, shall stand disposed of along with this judgment.

May 30, 2024  
monika

(GURBIR SINGH)  
JUDGE

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |