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

**CRR(F)-99-2025 (O&M)
Date of decision: 21.05.2025**

HARWANT SINGH

...Petitioner(s)

VERSUS

SARABJIT KAUR AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Jagdish Singh Mahal, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed for setting aside the impugned order dated 16.11.2024 passed by the learned Additional Principal Judge, Family Court, Gurdaspur, vide which maintenance has been granted to respondent No.2-minor son to the tune of Rs.3,000/- per month.

2. Learned counsel for the petitioner submitted that it is a case where the petitioner and respondent No.1 got married with each other in the year 1994 and thereafter, four children were born out of the said wedlock, out of which only respondent No.2, who is the minor son has claimed maintenance as the other three children were not entitled for the same and in fact both the daughters of the petitioner are married. He further submitted that a matrimonial discord took place between the parties and in the year 2004, a panchayati divorce took place between the parties and they separated from each other and respondent No.1-wife started residing with another person, namely, Boota Singh and it was thereafter in the year 2007 that respondent No.2-minor son was born. He further



submitted that the petitioner has disputed the paternity of respondent No.2-minor son claiming that he is not his biological father and therefore, respondent No.2 was not entitled for grant of maintenance. He further submitted that there are various documents which were proved on record to show that respondent No.1-wife had withdrawn from the society of the petitioner after the panchayati divorce had taken place, which she had signed and thereafter, she was residing and even got married with one Boota Singh regarding which the Aadhar Card and various other documents were also proved on record and therefore, the petitioner was not liable to pay the aforesaid amount of maintenance.

3. I have heard the learned counsel for the petitioner.

4. It is a case where it is an admitted position that the petitioner and respondent No.1 were married to each other in the year 1994 and four children were born out of the said wedlock, out of which two were daughters who are stated to be married and one son is major and therefore, the aforesaid three children were not entitled of maintenance but the dispute is only with regard to the youngest son i.e. respondent No.2, who is stated to be admittedly a minor and is under the care and custody of respondent No.1-wife. The learned Additional Principal Judge, Family Court, Gurdaspur has allowed maintenance to respondent No.2-minor son to the tune of Rs.3,000/- per month but has denied the claim of respondent No.1-wife for grant of maintenance and in this way, the petition filed by the respondents under Section 125 Cr.P.C. was partly allowed, which is under challenge in the present petition. So far as the income of the petitioner is concerned, it was the claim of the respondents that he is a bus driver and is having other agricultural income as well and was earning about Rs.2,00,000/- per month but it was the case of the petitioner even by way



of his affidavit filed before the learned Additional Principal Judge, Family Court, Gurdaspur that he is earning only Rs.6,000/- per month and the aforesaid amount of Rs.6,000/- was admitted by him. Respondent No.1-wife and respondent No.2-minor son are also stated to be not residing with the petitioner.

5. An argument was raised by the learned counsel for the petitioner that since the petitioner and respondent No.1-wife had been residing separately from the year 2004 when a panchayati divorce had taken place on 02.12.2004 and respondent No.2-minor son was born in the year 2007, the petitioner is not the biological father of respondent No.2. The aforesaid argument raised by the learned counsel for the petitioner is unacceptable and unsustainable in law. A perusal of the aforesaid impugned order would show that although some documents pertaining to Aadhar Card and other documents were proved by the petitioner but he has not been able to prove that any marriage ceremonies took place between respondent No.1 and aforesaid Boota Singh regarding which it was alleged that respondent No.1-wife started living with him and had got married. Rather on the other hand, the panchayati divorce which had taken place on 02.12.2004 was not a dissolution of marriage by a decree of divorce. A panchayati divorce itself is unenforceable and it has got no value in the eyes of law. A marriage can be dissolved between the parties only by way of a decree passed by the competent Court of law and such kind of panchayati divorces are inadmissible and not recognized by any law unless they are so saved by any custom, usage etc. in accordance with law. However, it is not a case that such a practice was saved by law. Therefore, the aforesaid panchayati divorce, even if occurred on 02.12.2004, is insignificant and has got no force of law and therefore, even till date the marriage between the petitioner and respondent



No.1 is still in subsistence. Once the marriage between the petitioner and respondent No.1-wife is in subsistence then a child born to the wife is deemed to be a legitimate child under the provisions of Section 112 of the Evidence Act, 1872. The statutory presumption of legitimacy has not been rebutted by the petitioner, which otherwise may not have been rebutted in a summary trial under Section 125 Cr.P.C. In addition to the above, the allegations against respondent No.1-wife were that she got married with one Boota Singh regarding which no ceremonies of marriage have been proved. Not only the above, even otherwise also for the purpose of grant of maintenance under Section 125 Cr.P.C., the legitimacy of a child is not a relevant factor and the entitlement still subsists under the provisions of law and therefore, on that account also the petitioner cannot take up a plea of legitimacy of the child.

6. The present is a revision petition filed by the petitioner regarding which the scope is very limited. Interference can be sought only when there is any illegality or perversity in the impugned order passed. However, this Court finds no illegality or perversity in the impugned order dated 16.11.2024 passed by the learned Additional Principal Judge, Family Court, Gurdaspur.

7. Consequently, finding no merit in the present petition, the same is hereby dismissed.

8. Miscellaneous applications, if any, shall also stand disposed of since the main case has been dismissed.

21.05.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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