



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
120

CR-2711-2025(O&M)
Date of decision: 05.05.2025

Mannu Gupta

...Petitioner(s)

Vs.

Priyanka

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present petition under Article 227 of the Constitution of India is filed seeking setting aside of order dated 18.03.2025 (Annexure P5) whereby application for leading additional evidence based on subsequent development between the parties, has been wrongly dismissed.

2. Learned counsel for the petitioner submits that the petitioner had filed the present application dated 03.03.2025 (Annexure P3) seeking permission to produce additional evidence whereby the petitioner wanted to summon and examine witness and tender on record crucial documents to assist the Court to deal more effectually with the dispute at hand. It is submitted that the said application of the petitioner has been wrongly dismissed as the submission of the above-said evidence was material and essential for the proper adjudication of the matter and for the effective pronouncement of judgment. Moreover, no prejudice would have



been caused to the respondent by leading of the said evidence. It is also submitted that despite due diligence, the petitioner could not have produced the above-said witness along with above-said documents as the said witness was out of State and beyond the reach of the petitioner. It is accordingly prayed that the impugned order be set aside.

3. No other argument is made on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and perused the case file in great detail.

5. The brief facts of the case are that the petitioner was married to the respondent on 21.01.2015. One son was born out of their wedlock on 09.01.2017, who is in the care and custody of the wife. The petitioner had filed a petition under Section 13 of the Hindu Marriage Act for grant of divorce (Annexure P1) in 2019 to which the respondent had filed reply dated 30.10.2020 (Annexure P2).

6. During pendency of the said petition, the petitioner filed the present application dated 03.03.2025 (Annexure P3) for producing the following additional evidence: -

“a. Sangeeta W/o Karambir (Recorder) R/o 15-A, Uttam Nagar Delhi (shadow name Neha Arora), who got prepared the live picture of Audio and video of Priyanka at her parental house at Bhiwani that recording of picture and conversation regarding respondent's tuition and training work and residing in her parental house at Bhiwani is intact, exact in all respect as recorded by Sangeeta alongwith its pen drive NEOGT0118GB



(green teck) which contain recording of abovestated audio and video and detail transcripts of conversation between respondent (Priyanka and recorded Sangeeta which was got recorded in the month of January 2023).

b. DVD-R 120 min/4.7 GB. 16X WRITEX Company, in which containing mobile conversation between Mannu (M- 92554-83135) and Priyanka (M-72069-47018) regarding the independent mutual settlement for permanently separation, alongwith transcripts of conversation the parties.

c. 100% Disability certificate dated 10.12.2008 of Nisha Rani elder sister of Manu

d. Certified copy of statement of Sandeep Singla in case u/s 125 Cr.P.C. titled as Priyanka VS Manu Gupta at Family Court, Bhiwani.

e. Certified copy of respondent Priyanka in case u/s 125 Cr. P.C. titled as Priyanka VS Manu Gupta at Family Court, Bhiwani.”

7. As for the record, the said evidence was available with the petitioner. Yet, he had failed to produce the same at the time of concluding his evidence on 18.12.2024. It has been contended by the petitioner that despite due diligence, he could not have produced the above-said evidence. However, the said contention of the petitioner is utterly falsified from the record as it has been admitted by the petitioner himself in the written transcript of the video sought to be produced by him, that the said video was available with him since January 2023 and the audio recording was available with him since 06.11.2022. Further, some of the



evidence sought to be produced by the petitioner was part of the evidence tendered by the respondent in the proceedings under Section 125 Cr.P.C. As such, it is clear that the petitioner was in the knowledge of the evidence now sought to be led by him by way of additional evidence.

8. It has also come on record that the petitioner had availed as many as 12 opportunities to produce his evidence i.e. 2.8.2024, 14.8.2024, 2.9.2024, 17.9.2024, 4.10.2024, 18.10.2024, 29.10.2024, 13.11.2024, 29.11.2024, 4.12.2024, and finally, closed his oral evidence on 18.12.2024; whereafter matter was fixed for tendering of documentary evidence by the petitioner for 23.12.2024. On 23.12.2024, the petitioner tendered documents (Ex.P1, Ex.P2 and Mark PA) and completed his affirmative evidence. Thereafter, the petitioner availed 5 opportunities i.e. 07.02.2025, 10.02.2025, 18.02.2025, 21.02.2025 and 03.03.2025 to produce his rebuttal evidence. But despite the fact that the documents now sought to be produced at the time of rebuttal and arguments, were in the possession of the petitioner, the same were withheld without any apparent reason. It would, therefore, appear that the same was done only to delay the trial. It has been admitted by the petitioner himself that the said documents were not produced due to inadvertence. However, the same constitutes no ground for permitting additional evidence at the stage of rebuttal and arguments.

9. The relevant findings of the Family Court are as follows:-



*“5. The petitioner has filed this application for additional evidence with averment that after due diligence could not produce earlier the above said witness along with its above said documents as the same witness was out of state and beyond the reach of the petitioner, so the petitioner could not trace out the whereabouts of the above said witness earlier. As per averment in the application, the above said evidence are material, essential for the just decision of this case. When evidence was within the knowledge at the time of leading evidence in affirmative and additional evidence to contradict the evidence of the defendant cannot be allowed in such circumstances. By application for additional evidence, the petitioner cannot be allowed to fill in lacuna left in the evidence. Merely by stating that evidence sought to be produced, has been left due to inadvertence, application for additional evidence can not be allowed as held in **Manmohan Manocha Vs Ravinderpal Singh and Another CR-6259-2024 decided on 25.10.2024(PH)**. Additional evidence cannot be allowed to fill up the lacuna. The proposed evidence was in the knowledge of the petitioner at the time of leading evidence and now the case at the rebuttal evidence, the petitioner cannot be allowed to produce additional evidence and reliance is placed on **Rajbala Vs Dharambir and others CR-3396-2021(O&M) decided on 20.12.2021, Baldev Singh Vs Harchand Singh and others CR .No.4792 of 2017 (O&M) 16.08.2017 and Gurmej Singh Vs Harbhaja Kaur & others CR No.384 of 2018 decided on 28.11.2018**. In view of above said facts and law; the present application is bereft of merit and the same is hereby dismissed.”*



10. I am in complete agreement with the above said view of the learned Family Court. The present petition is, accordingly, **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

05.05.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No