



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH  
120(2)**

**CR-2703-2025(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.

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**NIDHI GUPTA, J.**

Present petition under Article 227 of the Constitution of India is filed seeking setting aside of order dated 18.04.2025 (Annexure P6) whereby application for leading rebuttal evidence in reference to order dated 18.03.2025 (Annexure P3) whereby application moved by the respondent for putting objection to the intended documentary evidence has already been dismissed, thus, the impugned order suffers from patent illegalities in the eyes of law.

2. Learned counsel for the petitioner submits that the respondent had previously moved an application dated 18.2.2025, raising objections to the intended documentary evidence in rebuttal by the petitioner. The application of the respondent was dismissed vide order dated 18.3.2025 (Annexure P3).



3. Then the petitioner had filed the present application dated 24.03.2025 (Annexure P4) for tendering evidence in rebuttal. Vide the said application, the petitioner had sought to tender on record the evidence led between the parties in the proceedings under Section 125 CRPC, the certified copies thereof, as well as the CD and the telephonic conversation between the respondent and another woman. The respondent had filed reply dated 28.3.2025 (Annexure P5), to the above said application of the petitioner. However, vide the impugned order dated 18.4.2025 (Annexure P6), the said application of the petitioner has been dismissed.

4. It is submitted by learned counsel for the petitioner that the rebuttal evidence sought to be brought on record is rebuttal to the issues onus of which is upon the respondent. It is submitted that the certified copy of the evidence between the parties in the section 125 proceedings are within the knowledge of the respondent; and therefore, no prejudice will be caused to her. It is further submitted that the petitioner came to know of the conversation transcript of the respondent with another woman later on, and these facts are necessary for the proper adjudication of the matter. It is accordingly prayed that the impugned order be set aside.

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

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



7. 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 respondent-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). The petitioner had previously also filed an application dated 3.3.2025, seeking permission to lead additional evidence; which was dismissed by the learned Family Court vide order dated 18.3.2025. The said order dated 18.3.2025 was challenged by the petitioner before this Court by way of CR-2711-2025; which has been dismissed by this Court, vide order of even date/5.5.2025. After dismissal of application for additional evidence by order dated 18.3.2025, the petitioner has filed the present application dated 24.3.2025 seeking to lead the very same oral as well as documentary evidence at rebuttal evidence stage.

8. It is undisputed that the proposed evidence was already in the knowledge of petitioner at time of leading affirmative evidence however, he has failed to produce the same. Moreover, the petitioner has never put above-said proposed evidence to respondent at the time of her cross-examination. Even further, as per Order 18 Rule 3 CPC, an opportunity to lead evidence in rebuttal can be granted only qua those issues where burden of proof lay upon respondent, and where petitioner has reserved



his right of rebuttal. It is not denied that in the present case the petitioner has not reserved his right to lead evidence in rebuttal. Thus, his right of leading evidence in rebuttal stands extinguished, and he cannot be allowed to lead affirmative evidence at rebuttal stage.

9. Relevant findings of learned Family Court are as under:-

*“5. The petitioner wants to lead above said oral as well as documentary evidence at rebuttal evidence stage. The proposed evidence was already in the knowledge of the petitioner at the time of leading affirmative evidence, however, the petitioner has failed to produce the same. Moreover, the petitioner had never put above said proposed evidence to the respondent at the time of her cross-examination. As per Order 18 Rule 3 CPC, an opportunity to the petitioner to lead evidence in rebuttal could be granted only qua those issues, where the burden of proof lay upon the respondent and where the petitioner had reserved his right of rebuttal in the absence of which his right of leading evidence in rebuttal would stand extinguished his right as held in Hardial Singh Vs Davinder Singh(PH): Law Finder Doc Id#1662913, CR-5466 of 2016 decided on 06.01.2020. Reliance is placed on Joga Singh Vs Jarnail Singh & others (PH), CR-5088 of 2019 decided on 06.03.2024, wherein it was held that once the plaintiff did not reserve his right to lead rebuttal evidence at the time of closing his affirmative evidence, his right to claim said benefit stands forfeited and the plaintiff cannot be allowed to lead rebuttal evidence. Reliance is placed on Munshi Ram & others Vs Sushil Chand & others, CR no.1233 of 2017 (O&M)(PH), decided on 25.04.2022, wherein it was held that Order 18 Rule 3 would not*



*give a right to plaintiff to lead evidence in rebuttal on issues, in which onus of proof is on plaintiff.”*

10. I am in complete agreement with the above said view taken by the learned Family Court. The present petition accordingly stands **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**