
(2016) 10 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 6617 of 2016

Parul wife of Himanshu

APPELLANT

Vs

Himanshu

RESPONDENT

Date of Decision : 03-10-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Evidence Act, 1872 — Section 65

Citation : (2016) 4 LawHerald 3474

Hon'ble Judges : Mr. Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. Vikram Singh, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Amit Rawal J.(Oral) - The petitioner-wife is aggrieved of the impugned order dated 19.09.2016 whereby at the stage of the respondent-husband's evidence, the application for summoning the witnesses has been allowed by permitting the husband to place on record transcript copy of the CD and the original mobile in support of the evidence already placed on record as Mark F.

2. Mr. Vikram Singh, learned counsel for the petitioner-respondent before the Court below submits that such attempt amounts to filling up of the lacuna . This is an attempt to improve upon the evidence in divorce petition seeking divorce on the ground of cruelty and desertion. Such permission should not have been granted once he has tendered CD which was marked as "F", nothing prevented him to place on record the transcript copy and the original mobile from where he had recorded voice calls in the CD and therefore, the order under challenge is not sustainable in the eyes of law. It tantamounts to be an order passed under Order 18, Rule 17A CPC which has been repealed by the legislation.

3. I have heard learned counsel for the petitioner, appraised the paper book and of the view that it is not a case of additional evidence, for, the respondent-

husband is still leading evidence. It is in addition to the evidence which has already been brought on record as Mark F i.e. copy of the CD. It is only an attempt to place on record the original mobile from which the voice calls have been recorded. Copy of the CD has already been supplied to the petitioner-wife which can always be compared and brought to the notice of the Court in case there is any change. Of course the petitioner-husband has been subject to litigation and the Court should have imposed costs for allowing the evidence to be brought on record.

4. The order under challenge is upheld. However, it shall contain the element of costs of Rs. 5000/-. The revision petition is disposed of upholding the order but with modification aforementioned.