

(2009) 03 P&H CK 0258

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. M-15248 of 2008

Gurpal Singh

APPELLANT

Vs

Narinder Kaur and another

RESPONDENT

Date of Decision: March 17, 2009**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482

Citation: (2009) 4 RCR(Criminal) 512**Hon'ble Judges:** Kanwaljit Singh Ahluwalia, J**Bench:** Single Bench**Advocate:** Dharam Pal, for the Appellant; Bahadur Singh, Advocate for the Respondent
Nos. 1 and 2, for the Respondent**Final Decision:** Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

Narinder Kaur and Sarabjit Singh had filed an application against the petitioner for grant of maintenance to Sarabjit Singh, respondent No. 2, at the rate of Rs. 2,000/- per month. It was stated in the application that Sarabjit Singh is disabled and petitioner being his father is bound to maintain him. It was averred in the application that Sarabjit Singh, respondent No. 2, met with an accident; was seriously injured and remained hospitalized from 17.6.1995 till 8.8.1995. Sarabjit Singh, respondent No. 2, was discharged and declared permanently disabled to the extent of 100%.

2. On the application filed, petitioner had denied that he is father of respondent No. 2 Sarabjit Singh. He took a categorical stand that Sarabjit Singh was not born from his loins. A specific issue to this effect being issue No. 1 was framed by the trial Court.

3. The trial Court held that petitioner was married with Narinder Kaur on 11.5.1975 and during subsistence of marriage, respondent No. 2 Sarabjit Singh was born on 14.11.1977. The couple had separated on 17.1.1978.

4. Mr. Rajiv Giroti, Senior Scientific Assistant, Central Forensic Science Laboratory, had appeared as PW.1 and Dr. Deepak Bakshi, appeared as PW.2 before the trial Court.

5. The Court, relying upon the evidence and tests conducted, came to conclusion that the petitioner is biological father of Sarabjit Singh. After the D.N.A. Test was conducted, a plea was raised by the petitioner that the report of test be not opened and relied upon. The trial Court after taking entire evidence into consideration came to conclusion that petitioner being father of Sarabjit Singh is liable to maintain him.

6. Aggrieved against the order of trial Judge, petitioner had filed a revision.

7. The revision was decided by the Court of Additional sessions Judge, Chandigarh, who upheld the findings of the trial Court and had concurred with the same. The Court has also taken into consideration that Sarabjit Singh was born during the subsistence of marriage and report of the Central Forensic Science Laboratory regarding DNA test excluded that Pritam Singh was the father of Sarabjit Singh.

I have heard counsel for the petitioner.

Sarabjit Singh, respondent No. 2, was born during the subsistence of marriage. The presumption is to be drawn against the petitioner. Even otherwise, from the scientific test conducted, petitioner was held to be biological father.

8. Petitioner had availed the remedy of revision. The present revision petition u/s 482 Cr.P.C. will tantamount to second revision. No patent illegality of infirmity has been pointed out in the orders of two Courts below. Therefore, there is no exceptional circumstance to exercise jurisdiction u/s 482 Cr.P.C.

Hence, there is no merit in the present petition and the same is dismissed.