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Phul Singh vs Shakuntala

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SooperKanoon Citation : sooperkanoon.com/1269238

Court : Delhi

Decided On : May-05-2026

Judge : Hon'Ble Mr. Justice Saurabh Banerjee

Appeal No. : CRL.REV.P./1290/2019

Appellant : Phul Singh

Respondent : Shakuntala

Advocate for Def. : Mr. Zeeshan Diwan, Ms. Harsha

Advocate for Pet/Ap. : Ms. Priya Sharma

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.REV.P. 1290/2019, CRL.M.A. 42633-42634/2019 PHUL SINGH .....Petitioner Through: Ms. Priya Sharma, Advocate with petitioner in person

versus

SHAKUNTALA .....Respondent Through: Mr. Zeeshan Diwan (DHCLSC) and Ms. Harsha, Advocates alongwith respondent in person.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% 05.05.2026

1. By virtue of the present petition under Sections 397/401 of the Code of Criminal Procedure 1973 (Cr.P.C.) read with Section 19 of the Family

Courts Act, 1984, the petitioner seeks to setting aside of the judgment

dated 21.04.2018 (impugned judgment) passed by learned Principal Judge, Family Court (West) Tis Hazari Courts, Delhi (learned Family Court) in Mt. No. 65/ 2014.

2. Briefly put, it is the case of the petitioner that although the petitioner

> and respondent got married in the year 1972, out of which two children were born, however, due to marital discord, the respondent left the matrimonial house in the year 1981 and she subsequently married Mr. Prem Sagar, with whom she was having an illicit love affair. Despite the fact that Mr. Prem Sagar and the respondent were married; the respondent was thrown out from her second matrimonial house.

3. In fact, a complaint against Mr. Prem Sagar was also made,

however, since the same was of no avail, the respondent filed a complaint against the petitioner seeking maintenance after living separately for almost 25 years. Pursuant thereto, the learned Family Court passed the

judgement dated 21.04.2018, awarding maintenance to the respondent.

Being aggrieved, thereby the petitioner has filed the present revision petition.

4. Ms. Priya Sharma, learned counsel for the petitioner primarily

submits that the respondent being married to Mr. Prem Sagar is something which has not been considered by the learned Family Court. Besides this, she also submits that since the petitioner is an old senior citizen being 63 years and suffering from number of ailments, he is totally dependent upon his pension as he is not in the condition to do any work. She further submits that the petitioner is not in the capacity to give even a single penny to the respondent since he has to maintain his second wife and children born therefrom. Ms. Priya Sharma also submits that the respondent is/ was living with her child from her second marriage and has no connection with the petitioner herein especially after the lapse of 25 years. She then submits that the learned Family Court has failed to consider the income affidavit and bank statements of the petitioner, which clearly reflect that the financial condition of the petitioner was/ is extremely poor. Ergo, Ms. Priya Sharma prays that the present petition be allowed and the impugned judgement be set aside.

5. On the other hand, Mr. Zeeshan Diwan, learned counsel for the respondent submits that the learned Family Court has meticulously, after analysing the documents and circumstances as was before it, submits that

there is no interference required in the impugned judgement, and that too in the present revision petition. Therefore, there is no need for interference therein.

6. This Court has heard the learned counsel for the parties as also perused the documents on record.

7. Regarding the prime contention of learned counsel for the petitioner

regarding the issue qua the maintenance not being permissible on account of the respondent being married to Mr. Prem Sagar, this Court finds that the same has been meticulously dealt by the learned Family Court vide the

judgement dated 21.04.2018 as under:-

20. The conduct of the respondent in claiming that the petitioner left in 1980 does not inspire confidence as the first son was born in 1980 and the girl child was born in 1983 and as per the respondent when the girl child was 3-4-month-old, the respondent eloped with one Prem Sagar whose address has also been mentioned in the WS. No reason is forthcoming from the respondent as to why he did not lodge any contemporaneous complaint with police to trace out his wife nor on his own he alongwith his relations searched for the petitioner at the address of Mr. Prem Sagar. The court undertook all the efforts to call Prem Sagar and Kamal Sagar but in vain as they were not traceable at given address D- 700, Jahagirpuri and as per order dated 30.11.2017 they were shown served through one Renu and as per the petitioner, Renu is her daughter and is deaf and she received the notices of DWs without realizing the consequences of such receipts. The disability certificate of Renu was also placed on record. The efforts were also undertaken to serve DW kamal Sagar and Prem Sagar at the address of the petitioner at B-459, RGB Block, Raghuvir Nagar, through the SHO, PS Khayala who reported that no such persons is residing there and statement of neighbours were also

recorded in corroboration of the report. In the given facts

and circumstances, respondent has failed to prove that the petitioner was living in adultery after leaving the matrimonial home. The petitioner has given the justification of living in separation from the respondent on the ground that the respondent used to beat her off and on and that she had been living with her mother all these years who expired on 02.03.2016 and was a Govt. Pensioner and that presently she was living with her daughter. The petitioner has established that she was neglected by the respondent who also in his cross-examination admitted that he did not pay any maintenance to the petitioner after separation and that he did not file any divorce case against the petitioner. It is the moral and legal duty of the respondent to maintain the petitioner, she being his legally

wedded wife. (Emphasis Supplied)

8. Barring this, this Court finds that none of the other grounds sought to be raised pale into insignificance which fall within the ambit/ scope of interference under Section 397 of the Cr.P.C., primarily, since they have

already been considered and analysed in detail by a well-reasoned order

by the learned Family Court before rendering the findings qua them.

9. Going deep, this Court finds nothing of merit which calls for any

> interference in the present revision petition as the assertions made, grounds raised and the arguments addressed qua them are not such which can be gone into in the present revision petition. In fact, as borne out under the garb of the revision petition learned counsel for the petitioner is merely trying to reagitate the very same issues, which, as apparent from a bare reading of the impugned order, have been duly considered by the learned Family Court. This cannot be allowed, more so, since the learned Family Court has rendered a decision which is a plausible one.

10. In view of the above, the aforesaid ground taken by the petitioner is hardly of any relevance and cannot come to his aid, much less, after the detailed and plausible interpretation rendered by the learned Family Court.

11. In any event, as per settled law, this Court is not liable to interfere

> with any order/ judgment, merely because another interpretation thereof was/ is possible especially since this Court is exercising revisional jurisdiction and not in an appellate jurisdiction, and interference herein is permissible only whence there is some glaringly perversity, illegality, impropriety or there are inherent flaws in the impugned order/ judgment as

held by the Honble Apex Court in Amit Kapoor vs. Ramesh Kumar

Chandra: (2012) 9 SCC 460.

12. In view of the afore-going, since no ground for interference are made out, the present petition, alongwith the pending applications is dismissed.

SAURABH BANERJEE, J.

MAY 05, 2026/Ab

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