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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:07.03.2025

SHIVIKA GARG

...PETITIONER

VS.

ATUL GOYAL

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jagdish Manchanda, Advocate
for the petitioner.

SUVIR SEHGAL, J.

1. By way of present revision petition, petitioner-wife has approached this Court assailing order dated 17.02.2025, Annexure P-6, passed by the learned Additional District Judge (Family Court), Faridabad, whereby an application filed by her for recalling the respondent for further cross-examination, has been dismissed.

2. Mr. Jagdish Manchanda, counsel for the petitioner urges that the respondent-husband has filed a petition, Annexure P-2, under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, for dissolution of marriage on the ground of cruelty, which is pending and the respondent appeared as a witness (PW-1), but his cross-examination was conducted in a most casual



manner by the previous counsel engaged by the petitioner. He asserts that the previous counsel did not cross-examine the witness regarding the objections raised by the petitioner in the preliminary submissions and other material facts, which have direct bearing on the adjudication of the divorce petition. It is his argument that further cross-examination of the respondent would enable the Court to arrive at a just decision and the Family Court has erred in rejecting the application.

3. I have heard counsel for the petitioner and considered his submission besides examining the paper-book with his able assistance.

4. Order 18 Rule 17 of the Code of Civil Procedure provides that a court may at any stage of a suit recall any witness, who has been examined and may, subject to the law of evidence for the time being in force, put such questions to him as the Court thinks fit. The purpose of the rule is to enable the Court to clarify any position or doubt and the Court may either *suo moto* or on the request of any party recall any witness at any stage of the suit.

5. In *Vadiraj Naggappa Vernekar (dead) through LRs Vs. Sharadchandra Prabhakar Gogate (2009) 4 SCC 410*, Supreme Court has observed that the main purpose of the rule is to enable the Court, while trying a suit to clarify any doubts which it may have with regard to the evidence led by the parties. The provision is not intended to be used to fill up omissions in the evidence of a witness who has already been examined. In *Ram Rati Vs. Mange Ram (Dead) Through LRs and others (2016) 11 SCC 296* and *Gayathri Vs. M. Girish (2016) 14 SCC 142*, Supreme Court



has observed that recalling of witness at the instance of the respondent for further elaboration on the left out points is impermissible in law.

6. Adverting to the facts of the present case, record shows that the respondent tendered his affidavit on 12.07.2023 and was cross-examined on 09.02.2024. His cross-examination, which was conducted by counsel for the petitioner in her presence, runs into several pages. After the respondent closed his evidence, petitioner has filed an application, Annexure P-5, for recall of Atul Goyal (PW-1) for further cross-examination. A perusal of the application shows that the petitioner has levelled allegations against her previous counsel and has gone to the extent of stating that “the integrity of the previous counsel had become suspicious therefore the previous counsel had to be replaced with the new counsel”. She has levelled allegations against the previous counsel and in the same breath stated that the previous counsel had committed a blunder by cross-examining the witness in a most hasty and a casual manner. The reason that the previous counsel had not properly cross-examined the witness and had not confronted him with material facts cannot be accepted. Recalling of a witness merely on this ground is impermissible. This Court in *Sukhwinder Singh Vs. Davinder Singh and another* Law Finder Doc ID#2649793 held that merely because a new counsel wants to put some additional questions to the witness does not afford a valid justification to a litigant to apply for recalling of witness, whose statement has already been recorded. In case such an application is acceded to, litigation will never culminate.



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7. There is no irregularity or illegality in the order passed by the Family Court.

8. Petition being devoid of merit, is dismissed, with no order as to costs.

07.03.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No