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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR-1970-2022 (O&M)
Reserved on: 26.09.2025
Date of decision: 09.10.2025**

KULWANT SINGH**..Petitioner****Versus****JASWINDER KAUR AND ORS****..Respondents****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. G.S. Sirphikhi, Advocate
Mr. Vishnu Bector, Advocate
for the petitioner.

Mr. Harminder Singh, Advocate
Mr. Damanjot Singh, Advocate
for respondents.

SUDEEPTI SHARMA, J.

1. The present revision has been filed for setting aside order dated 11.11.2021 passed by learned Civil Judge (Junior Division), Batala vide which application under Section 151 Code of Civil Procedure, 1908 for examining respondent No.2 Balwinder Singh and respondent No.3 Manjit Singh through video conferencing has been allowed.
2. Learned counsel for the petitioner contends that learned Civil Judge (Junior Division), Batala has wrongly allowed the application filed by respondent No.2 and 3 by relying upon medical record of respondent No.2 Balwinder Singh, which is not authenticated. He further contends that despite the fact that both respondent No.2 and 3 were declared proclaimed offenders, learned Civil Judge (Junior Division), Batala allowed the application for examining them through video conferencing. Further that



learned Civil Judge (Junior Division), Batala failed to appreciate that to facilitate the respondents No.2 and 3 who are proclaimed offenders to join proceedings through video conferencing would amount to avoid criminal prosecution against them.

3. He relied upon the judgment passed by the Karnataka High Court in **T.G. Veeraprasad and others Vs. Sri Prakash Gandhi and others, 2022(3) AIR Kar R 604**, to support his contentions, wherein, the Court held that opportunity to judge the demeanor of a witness face to face is accorded great value in Indian Judicial system and merely by showing that it is inconvenient for a witness to attend trial can create a risk of denial of effective cross-examination.

4. Further reliance is placed on judgment passed by Telangana High Court in **Sundeep Reddy Tirumala Reddy Vs. Dondeti Anusha Reddy, 2020(2) HLT 160**, whereby, the Court held that recording evidence through video conferencing in matrimonial proceedings should be declined as it would facilitate husband to avoid criminal trial. Therefore, he prays that present revision petition be allowed.

5. Per contra, learned counsel for respondents No.2 and 3 contends that petitioner and respondent No.2 are real brothers and the criminal proceedings which are pending are because of the complaints lodged by the petitioner only. Further that he has also filed counter claim in the same suit filed by the petitioner. Learned counsel for the respondents contends that they do not want to delay the proceedings and as on date Balwinder Singh-respondent No.2 is in vegetative state and Manjit Singh-respondent No.3 who is son of Balwinder Singh is to look after his father, therefore, it will be difficult for them to physically present for examination from Canada. And



due to the medical condition of Balwinder Singh only the application to appear and get examined through video conferencing was filed by the respondents. Therefore, he prays that the present revision petition be dismissed.

6. I have heard learned counsel for the parties and have gone through the file of this case with their able assistance.

7. A perusal of file shows that the civil suit is filed by the petitioner, wherein, examination of respondents No.2 and 3 were required. Admittedly, respondents No.2 and 3 are resident of Canada and respondent No.2 Balwinder Singh had undergone heart surgery at Canada, thereafter, suffered major head and neck injuries in road accident and was under treatment, therefore, both of them since were to be examined in the civil suit moved an application for their examination through video conferencing.

8. A perusal of file further shows that respondents No.2 and 3 have already filed quashing petitions before this Court and the application for examination through video conferencing was filed on medical grounds and not to avoid criminal proceedings.

9. Further the facts and circumstances of this particular case shows that respondent No.2 is presently in vegetative state and respondent No.3 being his son is to take care of his father, therefore, it is not practically possible for both of them to come physically in India for their examination. Further no prejudice would be caused to the petitioner if respondent No.2 and 3 are examined through video conferencing. And so far as the contention raised by the petitioner with regard to the respondents being declared as proclaimed offenders is concerned, the appearance and examination through



video conferencing would not bar the criminal proceedings as per the criminal law.

10. Now, coming to the judgments relied upon by learned counsel for the petitioner, facts of both the judgments are distinguishable from the facts and circumstances of this particular case. Therefore, the judgments relied upon by learned counsel for the petitioner would be of no help to him.

11. It would be apposite to reproduce the relevant paras of order dated 11.11.2021:-

“6. I have heard the submissions made by learned counsel for parties and have perused the material on record very carefully with their able assistance.

7. Present application has been moved for examining defendant no. 2, Balwinder Singh and defendant no. 3 Manjit Singh through video conferencing or through commission. This application was filed basically on two grounds, firstly, both the defendants cannot come to India as both of them declared proclaimed persons. Secondly, the defendant no. 2 Balwinder Singh is facing some major health issues due to which it is not safe for him to travel.

8. In cases where the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience, the court could consider issuing a commission to record evidence by way of video conferencing. Normally a commission would involve recording of evidence at the place where the witness is. However, advancement in science and technology has now made it possible to record such evidence by way of video conferencing in the town/city where the court is. Video conferencing is an advancement of science and technology which permits one to see, hear and talk with someone far away with the same facility as is present before you, that is in your presence. Video conferencing is



an advancement in science and technology which permits one to see, hear and talk with someone far away, with the same facility and ease as if he is present before you i.e., in your presence. In fact, he/she is present before you on a screen. Except for touching, one can see, hear and observe as if the party is in the same room. In video conferencing both parties are in presence of each other

9. *An enactment of former days is thus to be read today, in the light of dynamic processing received over the years, with such modification of the current meaning of its language as will now give effect to the original legislative intention. The reality and effect of dynamic processing provides the gradual adjustment. It is constituted by judicial interpretation, year in and year out. It also comprises processing by executive officials.*

10. *At this stage the words of Justice Bhagwati in the case of **National Textile Workers' Union v. P.R. Ramakrishnan, (1983) 1 SCC 228, at page 256, need to be set out. They are: "We cannot allow the dead hand of the past to stifle the growth of the living present. Law cannot stand still; it must change with the changing social concepts and values. If the bark that protects the tree fails to grow and expand along with the tree, it will either choke the tree or if it is a living tree, it will shed that bark and grow a new living bark for itself. Similarly, if the law fails to respond to the needs of changing society, then either it will stifle the growth of the society and choke its progress or if the society is vigorous enough, it will cast away the law which stands in the way of its growth. Law must therefore constantly be on the move adapting itself to the fast-changing society and not lag behind."***

11. *Examination of witnesses in criminal cases, through video conferencing was approved by the Hon'ble*



*Supreme Court in a Judgment reported in **State of Maharashtra Vs Dr.Praful B.Desai reported in 2003 (2) ALT (Crl.) 118 (SC)**, when such is the facility accorded in criminal cases, there should not be any plausible objection for adopting the same procedure, in civil cases as long as the necessary facilities, with assured accuracy exist.*

*12. The Hon'ble Supreme Court in the case of **Salem Advocates Bar Association reported in AIR 2003**, interpreted order XVIII R 4 (3) C.P.C that it provides that the evidence may be recorded either in writing or mechanically in the presence of Judge or commissioner. The use of the word mechanically indicates that the evidence can be recorded even with the help of the electronic media, audio or audio-visual.*

*13. In the Judgment of the Hon'ble Delhi High Court reported in **International Planned Parenthood Federation V. Madhu Bala Nath (Reported in AIR 2016 Delhi 78)** , a witness who resides in London of United Kingdom was permitted to give her evidence by Video Conferencing*

*14. In 20th century **Fox Film Corporation Vs NRI Film production Associates Pvt Ltd. (AIR 2003 KANT 148)** the Hon'ble High Court of Karnataka held that -- Recording of evidence through video conferencing is permissible in law, provided that necessary precautions must be taken, both so as to the identity of the witnesses and accuracy of the equipment, used for the purpose.*

*15. In the case of **Amitabh Bagchi Vs. Ena Bagchi (AIR 2005 Cal 11)** while analysing Sections 65-A and 65-B of Evidence Act, 1872, the Court held that the physical presence of person in Court may not be required for purpose of adducing evidence and the same can be done through medium like video conferencing. Sections 65-A*



and 65-B provide provisions for evidences relating to electronic records and admissibility of electronic records, and that definition of electronic records includes video conferencing.

16. The learned counsel for the respondents/Plaintiffs argued that defendant no. 2 Balwinder Singh and defendant no. 3 Manjit Singh have been declared proclaimed persons in many criminal cases so, it is not pertinent to facilitate such persons who are wanted in many criminal cases in India.

17. This court is of the opinion that this contention of learned counsel for respondents/plaintiffs is not a ground to dismiss the present application. The case in hand is of a civil nature and the testimony of both the defendants/applicants is very material for deciding the present suit as the rights of both the defendants are involved in this case. Moreover, the importance of their testimony has not been opposed by the learned counsel for the respondents/plaintiffs. It is in the interest of justice that every case should be decided on merits and after providing effective opportunities to the parties to put forward their respective evidence.

18. Furthermore, both the applicants have shown their bona fide conduct by themselves mentioning the said fact of declaring both the defendants/applicants as proclaimed persons. The learned counsel also placed on record copies of Quashing petitions pending in the Hon'ble Punjab and Haryana High Court.

*19. The Hon'ble High Court of Telangana in **Sirangai Shoba @ Shoba Munnuri vs. Sirangi Muralidhar Rao (AIR 2017 Hyderabad 88)**, held that the request to record evidence through Skype technology cannot be denied on the ground that the same is a device to avoid facing the criminal case allegedly filed against the witness.*



20. *The second reason for the present application is concerned with the defendant no. 2 Balwinder Singh only. As per the contents of the application, defendant no. 2 Balwinder Singh is facing severe health issues due to which he remained hospitalized for many days and as per medical opinion of his doctor, he has been advised to take complete bed rest. The learned counsel for applicants also placed on record copies of medical record of defendant no. 2 Balwinder Singh.*

21. *On the other hand, the learned counsel for respondents/plaintiffs argued that the defendant no. 2 has taken a false plea as the medical record placed on record by the learned counsel for applicants reveals that the defendant no. 2 has not been undergone any Heart Surgery.*

22. *As per the medical record, the defendant no. 2 Balwinder Singh is a 64 years old man and is suffering with orthostatic hypotension with supine hypertension and with nonobstructive coronary artery disease. He had history of traumatic head injury and ongoing neck pain and headaches. Moreover, he is mobilizing with a 4-wheeled walker. He has also 40% blockage of the mid LAD. Meaning thereby, due to his old age coupled with his health issues, it not safe for him to travel.*

23. *The learned counsel for the respondents/plaintiffs further opposed the present application on the ground that the learned counsel wants to put original record to both the defendants and for their effective cross examination, physical presence of both the defendants/applicants is necessary. In the present Case, the attendance of the witnesses cannot be ensured without delay, expense and inconvenience. It was held by the Apex Court in various cases that recording of evidence by video conferencing is a 'procedure established by law'. In*



the present circumstances, the court is duty bound to see the convenience of witnesses as well. Before examination of the witness, a set of pleadings, written statement and other documents must be sent to the witnesses so that the witnesses have acquaintance with the documents. The demeanour of the witnesses can be properly observed including identity of the person giving answers and there is no possibility to prompt or alert to give a different answer from use of the technology by observing closely the demeanour of witnesses with no possibility of any others prompting. None of the provisions of law, much less Sections 65A and B of the Indian Evidence Act prohibit such an e-recording of evidence. Law is fairly settled for availing of the technological advancements.

24. The present application was also controverted by the learned counsel for respondents/plaintiffs on the ground that the present application cannot be filed under section 151 CPC rather under order 18 rule 4 of CPC which is the correct provision for filing the present application. Moreover, inherent power cannot be exercised in contravention or in conflict of or ignoring express and specific provision of law. Hence, the present application is liable to be dismissed.

25. Perusal of order 18 rule 4 CPC reveals that in the said rule, there is no express provision regarding recording of evidence through video conference. Order 18 rule 4 gives discretion to the court to record the evidence through commissioner or by the concerned court itself but the said provision is silent about the recording of evidence through video conferencing. Accordingly, there is no bar for filing the present application under section 151 CPC.

26. The learned counsel for the respondents/plaintiffs further argued that the defendants have no right to get a



relief from the court as the present application is based on the falsehood pleadings. As per the contention of the learned counsel for the respondents/plaintiffs, the defendant no. 2 Balwinder Singh went to Canada in the year 2016 and not in 2014 as he had appeared in the present case in the year 2016 through his advocates vide Power of Attorney dated 06.02.2016.

27. The mere fact of mentioning wrong year is not a ground to refuse the present relief to the applicants when there are other grounds in favour of the applicants. This court is unable to comprehend, what benefit would the applicant entail by stating the wrong date of his going abroad.

28. In view of above said discussion present application stands allowed and applicants/defendants no. 2 and 3 are permitted to give their testimony through video conferencing. But at the time of recording their evidence through video conferencing, both the defendants/applicants are duty bound to get the pleadings and documents of the case with them to refer if other side require during evidence. After recording the evidence, both the applicants/defendants have to state that the contents are true and they authorise their representative or Advocate on their behalf to sign on the deposition and they are not going to dispute its correctness or authenticity at any time later to make it forms part of the record of the proceedings. With these observations, the present application stands disposed of. Finding herein are solely for the purpose of disposing of the application and shall not effect merits of the case.”

12. A bare perusal of the above referred to order shows that learned Civil Judge (Junior Division), Batala has categorically dealt with each and



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every arguments raised by the respondents and has passed a well reasoned order, which requires no interference by this Court.

13. In view of the above, the present petition is hereby ***dismissed***.

09.10.2025

Ayub

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*