



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

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Civil Revision No.1588 of 2025**Date of decision :-18.03.2025****Dr. Priya Yadav****....Petitioner****Versus****Dr. Amardeep Yadav****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Abhinav Gupta, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

Prayer in this petition is for setting aside the impugned order dated 03.2.2025 passed by the learned Principal Judge, Family Court, Gurugram, in case GW-100-2019, titled as 'Dr. Amardeep Yadav vs. Priya Yadav', vide which application moved by the respondent/petitioner herein for granting an opportunity to cross-examine PW1 was dismissed despite tendering unconditional apology in view of order dated 12.12.2023 (Annexure P-5) in CR-2816-2024 passed by co-ordinate Bench of this Court.

On 03.2.2025 the following impugned order was passed by the learned Principal Judge, Family Court, Gurugram :-

"This order of mine will dispose off an application for granting an opportunity for cross-examination of petitioner.

Learned counsel for the petitioner submitted that on 9.9.2022 the case was fixed for cross-examination of



petitioner. The cross-examination could not be concluded and defence of the respondent was struck off by this court. It has been submitted that the application was moved by the respondent for recalling the order dated 9.9.2022, that application was dismissed on 10.3.2023. Feeling aggrieved by the order, the respondent had gone before the Hon'ble High Court. The Hon'ble High Court vide order dated 12.12.2023 was pleased to direct the respondent to tender an apology, however the order dated 10.3.2023 was not set aside by the Hon'ble High Court. It has been submitted that the defence of the applicant was struck off by this court on account of conduct of the respondent. It has been submitted that despite striking off the defence the respondent is having the opportunity to cross examine the witness. It has been submitted that in the interest of justice, respondent be given an opportunity to cross-examine the PWI. It has been submitted that the applicant has tendered apology, but opportunity for cross-examination is required to be given to the applicant. He has relied upon he pronouncement of the Apex Court and submitted that the applicant is entitled to cross-examine the witness of petitioner despite striking off the defence.

On the other hand counsel for the petitioner submitted that vide order dated 9.9.2022 the cross-examination was not allowed to the applicant. He has submitted that opportunity for cross-examination has already been declined by the Predecessor of this court on 9.9.2022. He has submitted that the order dated 10.3.2023 has not been set aside by the Hon'ble High Court. The application for recalling the order dated 9.9.2022 was also dismissed by the Predecessor of this court. It has been submitted that respondent is not



having any right to cross-examine the witness. A prayer has been made for dismissing the application.

After hearing the submissions of both the parties it is clear that the Predecessor of this court passed the following order dated 9.9.2022 as under:-

"Cost paid. Today, the case was fixed for cross-examination of petitioner. Petitioner present for cross-examination. However, counsel for the respondent sought adjournment. Perusal of file shows that several opportunities have been granted to the respondent for cross-examination of petitioner yet cross-examination is not recorded. No justification has been shown by respondent for not conducting the cross-examination. It shows utmost disregard towards the court proceedings. Therefore, there is no justification to adjourn the case for the same purpose. Therefore, the defence of respondent is hereby struck off. Now the case is adjourned to 10.3.2022 for PWs.

Long date is given due to pendency of action plan cases.

*-sd-(Mona Singh)
Additional Principal Judge,
Family Court, Gurugram.
(UID No.HR-0232)9.9.2022*

I perused this order, as per this order various effective opportunities have already been granted to the respondent for cross-examination of the petitioner, but cross-examination had not been concluded by the respondent. Thereafter an application was also filed for recalling the order dated 9.9.2022, the same was also dismissed vide order dated 10.3.2023 by the Predecessor of this court.

It is clear that Hon'ble High Court vide order dated 12.12.2023 had not interfered in the order of Trial Court and directed the respondent to tender apology. Hence, it is clear that an opportunity for cross-examination has already been declined to the applicant. Learned counsel for the applicant relied



upon case title "Ranjit Singh and Anr. Vs. State of Uttarakhand and Ors" Civil Appeal No.2394/2023. I perused this authority. This authority is not applicable to the present facts and circumstances of the case, because in this case, in actuality the cross-examination was not allowed by the Predecessor of this court and defence was struck off with the finding that the applicant was not entitled for cross-examination. Hence the application in hand is hereby dismissed.

Now the case is adjourned to 4.4.2025 for final arguments”

Learned counsel for the petitioner submits that on 09.09.2022 when the case was fixed for cross-examination of the respondent, the petitioner could not appear before the Court as she had to attend a professional exhibition in Zirakpur on behalf of company i.e. Carestream Dental, in which she was employed as product specialist, hence, she requested her counsel to seek adjournment. However, the learned Family Court vide order dated 09.09.2022 struck off the defence of the petitioner. The said order dated 09.09.2022 was challenged by the petitioner by filing an application for recalling the said order dated 09.09.2022 but the same was also dismissed vide order dated 10.3.2023 (Annexure P-4). Thereafter, petitioners challenged the said orders dated 09.09.2022 and 10.3.2023 vide Civil Revision No.2816-2023 titled as ‘Dr. Priya Yadav vs. Dr. Amardeep Yadav’, which vide order dated 12.12.2023 (Annexure P-5) was disposed of by the co-ordinate Bench of this Court, which reads as follows :-

“1. In this case, the proceedings under Section 6(a) of the Hindu Minority and



Guardianship Act, 1956, read with Section 6, 7, 8 and 9 of the Guardians and Wards Act, 1890 read with Section 7 of the Family Court Act, 1984, are pending before the Family Court.

2. *On 09.09.2022, the Family Court passed the following order:-*

"Cost paid. Today, the case was fixed for cross-examination of petitioner. Petitioner present for cross examination. However, counsel for the respondent sought adjournment. Perusal of file shows that several opportunities have been granted to the respondent for cross examination of petitioner yet cross examination is not recorded. No justification has been shown by respondent for not conducting the cross-examination. It shows utmost disregard towards the court proceedings. Therefore, there is no justification to adjourn the case for the same purpose. Therefore, the defence of respondent is hereby struck off. Now the case is adjourned to 10.03.2022 for PWs.

Long date is given due to pendency of action plan cases,"

3. *An application filed for recall of the order was dismissed by the Family Court on 10.03.2023. From the reading of the order, it is evident that the learned counsel representing the petitioner (the respondent before the Family Court) despite repeated opportunities, did not come forward to complete the cross-examination of the petitioner. It is also evident that the Presiding Judge made a request to the learned*



counsel for cross-examining the witness, however, he refused.

4. Keeping in view the aforesaid facts, this Court is not inclined to interfere in exercise of its revisional jurisdiction. However, the petitioner, if so advised, may file an application before the Presiding Judge of the Family Court, apologizing about the conduct of her counsel. The Presiding Judge shall consider the same in accordance with law.

5. With the observations made above, the present revision petition is disposed of.”

Thereafter, in compliance of order dated 12.12.2023 the petitioner filed an application tendering apology for her counsel's conduct, which was disposed of vide order dated 21.9.2024 (Annexure P-7) by the learned Additional Principal Judge, Family Court, Gurugram. After that the petitioner moved an application dated 21.9.2024 (Annexure P-8) seeking opportunity to cross-examine PW1. Learned counsel submits that even no reply to the said application was filed by the respondent, the learned Family Court, vide impugned order dated 03.2.2025 dismissed the said application of the petitioner.

Learned counsel submits that the petitioner would suffer irreparable loss if the impugned order dated 03.2.2025 passed by the learned Additional Principal Judge, Family Court, Gurugram is not set aside. At the very outset, learned counsel submits that one effective opportunity may be granted to the petitioner herein to conclude cross-examination upon PW1, as grave injustice will be caused to her if she is not permitted to do so.



After hearing learned counsel for the petitioner, issuance of notice of motion is dispensed with at this stage, as it will cause further delay in disposal of the case. Accordingly, keeping in view the above facts as canvassed by learned Counsel for the petitioner, this petition is allowed and impugned order dated 03.2.2025 passed by the learned Additional Principal Judge, Family Court, Gurugram is set aside. The learned trial Court/Family Court, Gurugram is directed to grant one effective opportunity to enable the petitioner herein to conclude cross-examination upon PW1, however subject to payment of Rs.50,000/- as costs to be deposited within two weeks from today in the “Poor Patients’ Welfare Fund of the Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh”.

Disposed of as above.

Pending application(s), if any, stands disposed of.

March 18, 2025

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No