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

CR-565-2025 (O&M)

Reserved on : 17.02.2025

Date of Decision : 27.02.2025

Love Gogia

... Petitioner(s)

VERSUS

Tannu Dua

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Petitioner - Love Gogia - in person (through hybrid mode).

ALKA SARIN, J.

1. The present revision petition has been filed by the petitioner-husband for seeking removal of the time restriction imposed by this Court vide order dated 22.08.2024 passed in CR-779-2024 and for setting aside the order dated 05.12.2024 whereby the application filed by the petitioner for extending the time for cross-examination of PW1 - Tannu Dua - was dismissed.

2. Facts are being taken from the petition and the annexures as appended with the revision petition. The petitioner and the respondent got married on 08.04.2015. In December 2018 a divorce petition was filed by the respondent-wife and during the pendency of the divorce petition, the respondent-wife approached this Court by filing CR-6636-2023 which was disposed off vide order dated 04.12.2023. In the said CR-6636-2023 the petitioner-husband herein (respondent in CR-6636-2023) appeared through video conferencing. The prayer in the said petition was for expeditious disposal of the petition pending before the Family Court, Faridabad. It was observed in the order dated 04.12.2023, which has been appended as

Annexure P-4 with the present revision petition, that the respondent (who is the petitioner-husband herein) was duly heard and he was asked if he was interested in expeditious disposal of the case pending before the Family Court. However, instead of giving a direct reply he only sought time to file a reply to the revision petition. Vide order dated 04.12.2023 the said CR-6636-2023 was disposed off with a direction to the Family Court to dispose of the case expeditiously by following proper procedure. Thereafter, the petitioner-husband filed CR-779-2024 in this Court to challenge the order dated 20.01.2024 passed by the Family Court as also for further directions to consider the pending applications and objections raised by the petitioner-husband. The said CR-779-2024 was disposed off by a co-ordinate Bench of this Court vide order dated 08.02.2024 (Annexure-P-10). Thereafter, since the petitioner-husband was not cross-examining the witness, the cross-examination of the witness - Tannu Dua - was treated as 'NIL' by the Family Court vide order dated 09.02.2024. Subsequently, the petitioner-husband filed applications being CM-13984-CII-2024 and CM-4072-2024 in CR-779-2024 to inter-alia challenge the orders dated 09.02.2024 and 20.01.2024 passed by the Family Court. The said applications were disposed off by this Court vide order dated 22.08.2024 the operative part of which reads as under :

“I have heard the rival submissions made by applicant/petitioner and by learned counsel appearing for non-applicant/respondent and have also gone through the case file.

In the order dated 08.02.2024, passed by this Court, the learned Family Court was directed to dispose of the application dated 16.09.2021 in accordance with law, before starting cross-examination of PW-1 Tannu Dua. The applicant-petitioner has submitted that the said order

was brought to the notice of the Court but the Court did not bother to consider the same. The said averment of the applicant/petitioner cannot be accepted because no Court is expected to violate the order passed by the higher Court. The Judicial Department is a disciplined Department. Said allegation needs to be ignored. No doubt, the applicant had filed written submissions through e-filing and as per entry made at the Judicial Service Center, the same were filed at 12:40:27 PM on 09.02.2024 after verification. The applicant/ petitioner did not file the submissions directly in the Court and has taken advantage of filing submissions through e-filing. Accordingly, he has also bye-passed the Court.

Keeping in view all the peculiar facts and circumstances of the case, learned counsel appearing for non-applicant/respondent has fairly admitted that he has no objection, if opportunity is given to the applicant/petitioner to cross-examine PW-1 Tannu Dua. It has been apprised to this Court that the next date fixed before the learned Family Court is 28.08.2024.

In the aforesaid circumstances, the impugned order dated 09.02.2024, passed by learned Family Court is set aside and it is directed that the Family Court shall decide the application dated 16.09.2021. The parties shall make their submissions on 28.08.2024 or as per discretion of learned Family Court and would not seek any adjournment and the same would be positively heard in the next 2/3 working days. Thereafter, the application dated 16.09.2021 would be decided first and then, one opportunity would be given to the applicant/petitioner to cross-examine PW-1 Tannu Dua. The cross-examination shall be conducted on day-to-day basis. The applicant/petitioner shall not get any adjournment to cross-examine the aforesaid witness,

which would not stretch beyond the three working days from the start of cross-examination of PW-1.

The present application stands disposed of in the above terms.

Whatever is stated above, is for the purpose of deciding this application and has no effect on the merits of the case or in any other proceedings.”

Subsequently the petitioner cross-examined the respondent-wife, Tannu Dua, on 24.09.2024 - first in the pre-lunch session and thereafter in the post-lunch session. The witness was recalled for further cross-examination on 25.09.2024 first in the pre-lunch session and thereafter in the post-lunch session. Similarly, the witness was recalled for cross-examination on 26.09.2024 and she was once again cross-examined in the pre-lunch session and thereafter in the post-lunch session. The petitioner-husband moved an application on 26.09.2024 for extension of time for cross-examination of PW1 - Tannu Dua. The said application was disposed off vide the impugned order dated 05.12.2024 observing therein that the High Court vide order dated 22.08.2024 had clearly directed that the cross-examination of PW1 - Tannu Dua - should not be stretched beyond three working days and the said witness had been allowed to be cross-examined on three dates and therefore the application was dismissed. Aggrieved by the same, the present revision petition has been filed.

3. On the first date of hearing, this Court had, during the course of submissions made by the petitioner-husband while appearing in person, put a query to him as to how much more time he required for conducting the cross-examination to which the petitioner-husband stated that he had an unfettered right to cross-examine the respondent - Tannu Dua - to elicit the truth. Since the petitioner-husband appearing in person was not able to assist the Court

regarding the number of dates that had been sought, vide order dated 29.01.2025 the Family Court was requested to send a scanned copy of the complete set of *zimni* orders alongwith affidavit in examination-in-chief filed by the respondent-wife and her complete cross-examination. The petitioner-husband addressed an email dated 03.02.2025 to the Co-ordination Branch, High Court Chandigarh at 1.58 am with his written submissions for the hearing on 03.02.2025. On 03.02.2025 the case was adjourned to 17.02.2025 as the record was not received. On 17.02.2025 arguments were heard and judgment reserved. Subsequently on 18.02.2025 an email was sent by the petitioner-husband to the Co-ordination Branch, High Court Chandigarh at 12.42 PM with an attachment which reads as "*Submission Pursuant To Reservation of Judgment*". The said submissions are being reproduced verbatim hereinbelow:

*"Submissions Pursuant To Reservation of Judgment
Most Respectfully Submitted,*

- 1. That the Hon'ble Court reserved judgment after hearing the petitioner on 17.02.2025.*
- 2. That the present submission is made for the sole purpose to ensure that no findings, restrictions, or adverse observations are made or relied upon on any point that was not discussed during the hearing in open court and on which the petitioner was not given an opportunity to respond.*
- 3 That this submission arises from petitioner's prior experience before the Hon'ble High Court, where inter-alia an arbitrary three-day restriction on cross-examination was imposed upon the petitioner. In that instance, the restriction:*
 - a) Was neither pleaded nor sought by either party;*
 - b) Was not discussed or argued in open court;*

c) Was not specifically brought to the attention of the petitioner for a response;

d) Was imposed only through a final judgment, uploaded five days after the date mentioned on it, denying the petitioner a timely opportunity to address or contest it.

4. That the imposition of such an undiscussed restriction not only violates the principles of natural justice, but also undermines the fairness and transparency of judicial proceedings. Had the petitioner been given an opportunity to address this issue at the relevant time, unnecessary litigation could have been avoided and valuable judicial time and resources conserved. This also reinforces the principle of judicial economy.

5. That, notwithstanding the overwhelming merits in favour of the petitioner, if the Hon'ble Court is inclined to deny relief, it may find it reasonable and appropriate that:

a) No adverse point or restriction is imposed unless it was specifically discussed in open court, allowing the petitioner the opportunity to address it; and

b) The petitioner is given a fair and reasonable opportunity to respond to any such point, in adherence to the established tenets of due process.

6. That this submission is not intended to challenge the Hon'ble Court's discretion but only to respectfully ensure due process, fairness and transparency, preventing any inadvertent miscarriage of justice.

7. In view of the foregoing, the Hon'ble Court is respectfully requested to ensure that:

a) No adverse finding, restriction, or relief denial is based on any ground that was not discussed in open court, affording the petitioner the opportunity to present arguments and evidence.

b) In the event that the Hon'ble Court deems it necessary to rely upon any undiscussed point, the petitioner be given a reasonable opportunity to address the same, including the right to present evidence and arguments, prior to the final pronouncement of the judgment.”

4. I have heard the petitioner-husband in person and also considered the submissions sent by email on 03.02.2025 and 18.02.2025.

5. In the present case a petition under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-wife has been pending since 2018. Earlier in the revision petition preferred by the respondent-wife being CR-6636-2023, directions were given to dispose off the petition expeditiously. Thereafter, CR-779-2024 was filed by the petitioner-husband which was disposed off vide order dated 08.02.2024. Subsequently, he filed applications in the said CR-779-2024 which were disposed off vide order dated 22.08.2024. It was specifically directed that the petitioner-husband would cross-examine PW1 - Tannu Dua - on a day-to-day basis and that the cross-examination would not stretch beyond three working days from the start of the cross-examination of PW1. As per the cross-examination of PW1 - Tannu Dua - appended with the present revision petition as Annexure P-17, it reveals that on three consecutive dates i.e. 24.09.2024, 25.09.2024 and 26.09.2024, the witness - Tannu Dua (PW1) - was cross-examined at length both in the morning sessions and in the post-lunch sessions. The cross-examination, which has been appended with the present petition, runs into 37 pages and was conducted by the petitioner-husband himself. This Court during the course of the arguments had specifically posed a query to the petitioner-husband as to how much more time he wanted for cross-examination of the witness to which the petitioner-husband had responded that he had an

unfettered right to cross-examine the witness and that the cross-examination could not be curtailed as he had to elicit the truth.

6. This Court vide order dated 22.08.2024 passed in CM-13984-2024 and CM-4072-2024 in CR-779-2024 had specifically directed that the cross-examination of PW1 - Tannu Dua - would be on a day-to-day basis and would not stretch beyond three working days from the start of the cross-examination. The petitioner-husband chose not to challenge the said order and cross-examined the respondent-wife, Tannu Dua, on three consecutive dates. It does not now lie in the mouth of the petitioner-husband to state that the restriction placed upon the cross-examination in the said order should be extended.

7. The prayer made in the present revision petition reads as under :

“RELIEF SOUGHT

WHEREFORE, the petitioner humbly requests this Hon'ble Court to kindly exempt the filing of certified copies of the annexure(s) and the English translation of Annexure P-3, P-5, P-7, P-14, P-15 and P-17. The petitioner further requests that this Hon'ble Court be pleased to:

- 1. Allow the petitioner to continue with cross-examination of PW-1, in accordance with law, without undue restrictions, while setting aside the Ld. Trial Court's order dated 05.12.2024; and*
- 2. Initiate appropriate action concerning the fraudulent acts, including the reliance on forged documents and misrepresentation, as revealed during the proceedings.”*

Even now the petitioner-husband is unwilling to clearly state as to how many more days he needs to cross-examine the witness.

8. The aim and object of the Family Courts Act, 1984 is for expeditious disposal of family matters. In the Statement of Objects and Reasons of the Family Courts Act, 1984, it has been stated that the Bill *inter alia* seeks to “(h) to simplify the rules of evidence and procedure so as to enable a Family Court to deal effectively with a dispute.” No party especially in family matters can be permitted to cross-examine *ad nauseam*. The petitioner-husband is seeking an unfettered right without any limitation on the time for cross-examining the respondent - Tannu Dua. Neither is it forthcoming from the petition nor from the written submissions as to what the petitioner-husband really wishes to elicit which has already not been done in the cross-examination spanning over a period of three days in the pre-lunch and post-lunch sessions running into 37 pages. Cross-examination cannot be used as a tool of harassment in the hands of the litigating party and unfettered cross-examination would be anathema to the concept of a proper and fair trial. The petitioner-husband in the present bulky petition has touched upon the merits of the divorce petition which cannot be gone into by this Court at this stage.

9. In view of the fact that the order dated 22.08.2024 attained finality inasmuch as the same was not challenged by the petitioner-husband which granted him three working days from the start of the cross-examination to cross-examine PW1, Tannu Dua, the petitioner-husband cannot now seek an extension in the time for cross-examination by way of a fresh revision petition. Further, adequate and effective opportunity in terms of order dated 22.08.2024 passed by this Court have been granted and availed of by the petitioner-husband to cross-examine PW1, Tannu Dua. In view thereof, no fault can be found with the impugned order passed by the Family Court. The

present revision petition being devoid of any merit is accordingly dismissed.

Pending applications, if any, also stand disposed off.

27.02.2025

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO