



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

134

CR No.2419 of 2025 (O&M)

Date of Decision :01.05.2025

Amarjit Singh @ Amarjit Ahluwalia**.....Petitioner****Versus****Iqbal Kaur****..... Respondent****CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL**

Present : Mr. Akshay Chadha, Advocate for the petitioner.

VIKRAM AGGARWAL, J. (Oral):

The present revision petition assails the order dated 19.02.2025 (Annexure P-4), passed by the Court of learned Civil Judge (Jr. Divn.), Ludhiana, vide which the application for exemption from appearance of Harwinder Kuar (PW3) was dismissed. Challenge is also made to the order dated 15.04.2025 (Annexure P-10), vide which an application filed under Order 18 Rule 17 for recalling PW Harwinder Kaur was dismissed.

2. Shorn of unnecessary details, the petitioner had knocked the doors of this Court vide CR No.399 of 2025 since evidence of the petitioner/plaintiff had been closed. Vide order dated 31.01.2025, the revision petition was partly allowed and one last opportunity was granted to the petitioner to lead his entire evidence. The date fixed for the evidence of the petitioner by the Co-ordinate Bench was 05.02.2025 and it was ordered that only witnesses who appear on 05.02.2025 would be permitted to be examined. It was also directed that due opportunity to cross-examine the witnesses who appeared on 05.02.2025 would be given.



3. On 05.02.2025, 4 witnesses, PW3 Harwinder Kaur, PW4 Ajay Goyal, PW5 Tajinder Paul and PW6 Amit Kumar, appeared. Whereas Ajay Goyal and Tajinder Paul were recorded as PW4 and PW5, only the examination-in-chief of Harwinder Kaur (PW-3) and Amit Kumar (PW6) was recorded. Vide order dated 05.02.2025 (Annexure P-2), the matter was deferred to 19.02.2025 for cross-examination of the said witnesses. On 19.02.2025 (Annexure P-4), PW6 Amit Kumar appeared and his cross-examination was concluded. However, Harwinder Kaur (PW-3) could not appear and an application for her exemption was moved which was rejected by the learned trial Court holding that only one effective opportunity had been granted by the High Court for conclusion of evidence of the petitioner. Subsequently, an application under Order 18 Rule 17 CPC was moved for recalling Harwinder Kaur (PW-3) which was also rejected vide order dated 15.04.2025.

4. Learned counsel for the petitioner submits that on account of ill health of Harwinder Kaur (PW-3), she could not appear before the trial Court on 19.02.2025 and that there was no attempt to delay the proceedings. He submits that the co-ordinate Bench had duly directed the trial Court to grant opportunity for cross-examination but the learned trial Court erroneously declined one more opportunity to cross-examine Harwinder Kaur (PW-3). He submits that only one opportunity be granted to cross-examine Harwinder Kaur (PW3), in the absence of which, the rights of the petitioner shall be gravely prejudiced.

5. I have considered the submissions made by learned counsel for the petitioner.



6. There would be no necessity of issuing notice to the respondent, for, in view of the nature of the order that is proposed to be passed, no prejudice would be caused to her.

7. Though, in the considered opinion of this Court, the trial Court committed no illegality in denying any further opportunity of cross-examination of Harwinder Kaur (PW3), lest it may prejudice the case of the petitioner, this Court grants one more opportunity to the petitioner for cross-examination of Harwinder Kaur (PW3). This Court is informed that the matter is now listed before the trial Court on 02.05.2025. This Court does not wish to bind down the trial Court for cross-examination of the said witness on 02.05.2025 itself and leaves it to the discretion of the trial Court to give only one opportunity for cross-examination of PW3-Harwinder Kaur on a date convenient to the trial Court.

8. Accordingly, the revision petition is allowed and the impugned orders dated 19.02.2025 (Annexure P-4) and 15.04.2025 (Annexure P-10), are set aside. This shall however, be subject to payment of costs of Rs.10,000/-, which shall be paid to the respondent.

Pending applications, if any, shall stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

01.05.2025

Manoj Bhutani

Whether speaking/reasoned Yes/No
Whether reportable Yes/No