

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2076 of 2015

Date of Decision.24.03.2015

Nimish Behal

.....Petitioner

Versus

Ganesh Behal and others

.....Respondents

Present: Mr. Anil Chawla, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The defendant whose opportunity to cross-examine PW4 was denied to him moved an application to recall the order passed closing the evidence on 17.12.2014. It was dismissed on finding of the Court that the defendant was only interested in delaying the proceedings.

2. The counsel takes me to the zimni orders of the Court which reveal that PW4 was cross-examined in part on 17.11.2014. There was some difficulty in continuance of the cross-examination in view of the fact that some documents were produced for which translation in Punjabi was necessary and the Court had itself directed the party to file the translated copies. On the next date of hearing on 26.11.2014 and two other subsequent dates namely on 27.11.2014 and 01.12.2014, PW4 himself had not shown up. He was present on 05.12.2014 and on that day, the defendant did not cross-examine and the case was adjourned to 17.12.2014 and when he was not present, the Court had treated the case

as closed. I would, therefore, notice that there were two occasions when the defendant ought to have been present to cross-examine and if he did not show up, there were certain laches on his part. The Court was perhaps justified in closing the evidence but I would provide for one more opportunity to be granted to him for continuing the cross-examination what was commenced and which was carried out in part. I dispense with notice to the respondents only to ensure that there is no further delay in the continuation of the case and I allow an opportunity to be granted to the defendant on payment of costs of ₹ 10,000/- to the plaintiff.

3. The order passed by the trial Court is set aside and the defendant will have an opportunity to recall PW4 and cross-examine the said witness on the day which the court fixes now. The civil revision petition is allowed. If the amount is not paid on the day when the case is posted, the opportunity given through this order shall be taken as withdrawn and the impugned order will stand confirmed.

(K. KANNAN)
JUDGE

March 24, 2015
Pankaj*