

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

**Civil Revision No. 2653 of 2015 (O&M)**

Date of decision : 22.4.2015

Sandeep Masih

.. Petitioner

versus

Mamta Sharma

.. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal**

Present: Mr. Harinder Pal Singh Ishar, Advocate, for the petitioner.

**Rajesh Bindal, J.**

Prayer in the present petition filed under Article 227 of the Constitution of India is for setting aside order dated 2.3.2015 (Annexure P-3) passed by the learned court below, whereby evidence of the petitioner was closed by order of the court.

The proceedings in the present case arise out of a petition filed by the petitioner under Section 27 of the Special Marriage Act, 1954, for grant of decree of divorce against the respondent.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondent, as the same would unnecessarily delay not only disposal of the present petition but the divorce petition as well.

Learned counsel for the petitioner submitted that the petitioner filed the petition for grant of divorce on 14.8.2012, in which the respondent filed written statement on 12.4.2014. After completion of pleadings, the issues were framed. Thereafter, to explore the possibility of amicable settlement, the matter also remained pending with Mediation and Conciliation Centre, but when no fruitful result came out, the case was fixed for evidence of the petitioner. On 4.2.2015, the examination in chief of PW3

Sarah Samson was recorded, however, on request of counsel for the respondent, her cross-examination was deferred to 18.2.2015. On that date also, the cross-examination was deferred to 20.2.2015. As the matriculation examination of PW3 Sarah Samson were scheduled from 3.3.2015 to 19.3.2015, it was requested on 20.2.2015 for adjourning the case beyond 19.3.2015. The petitioner has annexed date-sheet as Annexure P-4. The request of the petitioner was accepted and the case was adjourned. However, inadvertently the date was noted as 2.4.2015, whereas the date granted by the Court was 2.3.2015. The error occurred as the request for adjournment was made for a date beyond 19.3.2015 when matriculation examination of the witness Sarah Samson was to conclude. On account of non appearance of the petitioner or the witness on 2.3.2015, the evidence was closed by order of the Court. He further submitted that earlier cross-examination of PW3 was deferred on request of counsel for the respondent. She is a material witness. Learned counsel further submitted that in case one opportunity is granted, the petitioner will complete his entire evidence on the date fixed. The case is stated to be fixed before the Court below on 25.4.2015.

Heard learned counsel for the petitioner and perused the paper book.

The facts of the case are borne out from the record produced by the petitioner. It is evident from the contention raised by learned counsel for the petitioner that the date on which the witness was to appear for her cross-examination, she was busy in her Board examination of Matriculation. Hence, there was reasonable ground for her non-appearance in Court. Earlier her cross-examination was deferred on the request of the respondent. Further the case set up by the petitioner was that wrongly the date was noted as 2.4.2015 instead of 2.3.2015. It was for the reason that the request for adjournment was made for granting a date beyond 19.3.2015 when the matriculation examination of PW3 Sarah Samson was to conclude.

Considering the aforesaid facts, in my opinion, the petitioner deserves to be granted one opportunity to conclude his evidence. The same shall be on the next date of hearing fixed before the court below i.e.

25.4.2015. It shall be subject to payment of cost of ₹ 5,000/- to the respondent by way of demand draft. Payment of costs shall be pre-condition. The learned court below on the date fixed shall first grant opportunity to the petitioner to conclude his evidence and thereafter proceed further with the case. The impugned order passed by the learned court below is modified accordingly. If aggrieved, the respondent shall have right to file application for recalling the aforesaid order.

The revision petition is disposed of in the manner indicated above.

22.4.2015  
vs

( Rajesh Bindal )  
Judge