

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

C.R. No.4449 of 2015

Date of Decision.16.07.2015

Gurwinder Singh

.....Petitioner

Versus

Lakhwinder Singh

.....Respondent

Present: Mr. Sunil Agnihotri, 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. I find the trial Court's approach to the impugned order to be hopelessly wooden and an improper appreciation of what was bound to be done by a Presiding Officer performing a judicial function. If the party, who had filed a proof affidavit as chief-examination, states sufficient justification for his absence which in this case is confinement in prison, the Court must have seen that there was no way that he could have been present in Court except under specific orders of the Court allowing for the detainee to be brought before Court for evidence. The observation of the Court that he had been given sufficient opportunities is meaningless, for, it was providing opportunities for tendering evidence of party which was behind the bars. The order is untenable and it is set aside.

2. I have dispensed with notice to the respondent only to hasten the process for the Court to do what it is bound to do. It may issue an

order to the Superintendent of jail where he is confined to be brought to Court for examination or may at its instance allow a commission to be issued who can record evidence in a separate room which the Superintendent of jail will provide and allow for cross-examination of the party. In either event, the Court may collect evidence of the party who is under confinement and then proceed with the trial in accordance with law.

3. The impugned order is set aside and the revision petition is allowed.

(K. KANNAN)
JUDGE

July 16, 2015
Pankaj*