

In the High Court of Punjab and Haryana at Chandigarh

109

CR No. 5225 of 2015

Date of decision:

Amar Singh and others

.....Petitioners

Versus

Triveni Devi

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.D.S.Bali, Sr.Advocate,
with Mr.Parveen Jain, Advocate,
for the petitioners.

- 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?**

RAJ MOHAN SINGH, J.

1. This is a revision under Article 227 of the Constitution of India read with Section 151 CPC for setting aside the impugned order dated 24.7.2015 (Annexure P-8), passed by the Additional Civil Judge (Sr.Divn.), Meham, vide which prayer for summoning certain material witnesses has been declined.

2. While passing the aforesaid order, Additional Civil Judge (Sr.Divn.), Meham has relied upon order dated 10.7.2015 passed by this Court in Civil Revision No.7047 of 2014, thereby granting only one opportunity for examination of DW Amar Singh subject to payment of cost of ₹ 15,000/-. This Court in the aforesaid order

recorded the fact of several adjournments for examining the witness, who was in judicial confinement. No steps were taken to secure presence of the witness from the jail. The non-examination of the defendant was opined to be on account of gross negligence of the respondent for which cost of ₹ 15,000/- was imposed to be paid within two weeks. Directions were issued to the trial Court that the trial Court shall re-open the case for the defendant and allow the steps to be taken for examination in Court. While giving other directions, it was observed that the examination-in-chief shall be secured through affidavit before hand or conducted in open Court on his production and the cross-examination shall be done on the same day. The Court will make appropriate timeframe to complete the same. It was also observed that if the defendant does not take immediate steps to have the party witness in jail to be served with notice, no other opportunity need to be given. If there is any fault on the part of the police in bringing the person to Court, the information be given to the District Judge for giving appropriate instructions to the Superintendent, Jail and ensure that the party is brought to the Court on the said date. In the aforesaid manner, Civil Revision No.7047 of 2014 was allowed.

3. Now prayer in the present revision petition is that the cost of ₹ 15,000/- has already been paid. Statement has been recorded. DW Amar Singh has been cross-examined as his examination-in-chief was taken by way of affidavit. No other DW was present and the case was adjourned for rebuttal evidence, if any and for arguments. At that stage, application for summoning the witness was

moved. Since the evidence was already closed in the manner as suggested in the order dated 10.7.2015 passed in CR No. 7047 of 2014 and only one opportunity was required to be given for examination of DW Amar Singh, therefore after examination of Amar Singh nothing survives and the case has already been adjourned for rebuttal evidence of the plaintiff, if any and for arguments. This Court cannot re-open the case at this stage over and above the scope of order dated 10.7.2015 passed in CR No.7047 of 2014.

4. Resultantly, this petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

August , 2015
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