

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

CR No.5773 of 2015.

Date of Decision: 04.09.2015.

Paramjit Kaur

....Petitioner.

VERSUS

Rajwinder Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. B.D. Sharma, Advocate for the petitioner.

SNEH PRASHAR, J.

By way of this civil revision petition filed under Article 227 of Constitution of India, the petitioner assailed the order dated 23.07.2015 passed by learned Additional District Judge, Amritsar, declining opportunity to the petitioner to cross examine PW3 Rajwinder Singh.

The submissions made by learned counsel representing the petitioner have been heard.

As submitted by the petitioner, respondent-husband filed a petition under Section 13 of the Hindu Marriage Act, 1955 on the grounds of cruelty and desertion. On notice, she appeared and filed reply to the

petition contesting the same on several scores. Issues on the rival contentions of the parties were framed by learned trial Court. Two witnesses were examined by the respondent-husband and he himself appeared as PW3. The petitioner cross examined the witnesses examined but on 23.07.2015 when the petition was fixed for cross examination of the respondent-husband, her counsel moved an application for adjournment as on account of death of a relative he was unable to appear before the Court. However, learned trial Court did not accept the request made and declined the opportunity to the petitioner to cross examine the respondent.

Learned counsel for the petitioner submits that the respondent is the main/most material witness. In case, the petitioner is not allowed an opportunity to cross examine him, her rights will be prejudiced and her defence will be adversely effected.

The orders of learned trial Court reproduced in the petition indicate that numerous opportunities were availed by the petitioner to cross examine the respondent and his witnesses. It is only when the respondent was unnecessarily prolonging the proceedings that learned trial Court passed the impugned order declining adjournment/further opportunity to the petitioner to cross examine the respondent. There is no doubt sheer negligence on part of the petitioner, but at the same time it is worth consideration that on 23.07.2015 when the petition was fixed for cross examination of the respondent by the petitioner, an application was filed by the counsel for the petitioner requesting for adjournment on the ground that he was unable to appear on account of mishappening in his relations.

The respondent-husband, who is petitioner in the main petition. is undisputably the main and most material witness. It is important for the petitioner-wife to cross examine him so that she can put her defence to him. Otherwise also, for proper and complete adjudication of the case, cross-examination of a witness which is meant to extract the truth is necessary.

Thus, considering all aspects and the fact that the opportunity sought should not be declined to the petitioner when the other party can be duly compensated with costs, the petitioner is allowed one opportunity to cross examine the respondent (PW3), subject to payment of Rs.3000/- as costs. The costs be deposited with Legal Aid Authority. The petition is stated to be fixed for 09.09.2015 before learned trial Court. On the said date, the parties will appear before the trial Court and a date will be fixed by learned trial Court for cross-examination of the respondent by the petitioner. In case due to some unforeseen eventuality the petitioner is unable to cross-examination the respondent on that date, learned trial Court will be at liberty to fix some other date for the said purpose, but only one effective opportunity will be granted to the petitioner.

Petition is accordingly disposed of.

(SNEH PRASHAR)
JUDGE

04.09.2015.
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