

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

**Civil Revision No.1918 of 2016
Date of decision : 08.04.2016**

Natasha Pandit

.....Petitioner

Versus

M/s Safety Circle Private Ltd.

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Tanmoy Gupta, Advocate for petitioner.

DARSHAN SINGH, J.

Present revision petition has been preferred by the petitioner-defendant against the order dated 15.02.2016, passed by learned Civil Judge (Junior Division), Chandigarh, vide which the application filed by her for recalling PW-1 B.P.S. Bakshi has been dismissed.

2. Learned counsel for the petitioner contended that learned counsel for the petitioner-defendant in the trial Court has not effectively cross-examined PW-1 B.P.S. Bakshi. The material facts were not put to him in the cross-examination. Very cryptic cross-examination has been

conducted, which has resulted in prejudice to the rights of the petitioner in the defence of the suit. Learned counsel for the petitioner-defendant had not put various questions to PW-1 B.P.S. Bakshi, which should have been asked to bring on record the truth. Thus, he contended that in the interest of justice, PW-1 B.P.S. Bakshi should be recalled for further cross-examination.

3. I have duly considered the aforesaid contentions, but I do not find any substance therein.

4. The respondent company has filed the suit for recovery of Rs.5,00,000/- against the petitioner-defendant on account of the liquidated damages for breach of agreement dated 21.07.2012. Annexure P-3 is the copy of the application moved by the petitioner-defendant under Order 18 Rule 17 of the Code of Civil Procedure, 1908 for recalling PW-1 B.P.S. Bakshi for further cross-examination. In the application, the petitioner has pleaded that her counsel Mr. Jagdeep Jaswal, Advocate has not kept her in loop regarding the proceedings of the case. He did not inform or consulted her when PW-1 B.P.S. Bakshi was cross-examined on 17.04.2015. She was not even present in the country on that day. It is further pleaded that her counsel did not ask the relevant questions and only completed the formality of the cross-examination. No cross-examination was conducted on many vital points and issues involved in the case.

5. This fact is not disputed that the petitioner had appointed Mr. Jagdeep Jaswal, Advocate as her counsel in the suit. There is no

dispute with the proposition of law that the counsel is competent to conduct the cross-examination on behalf of the party which engaged him. The witness which has already been cross-examined by the duly appointed counsel, cannot be recalled simply on the ground of change of the counsel and that the cross-examination conducted by the counsel was not effective and certain questions were required to be asked. If the witnesses are allowed to be recalled for further cross-examination simply on this ground that the counsel has not properly cross-examined the witnesses to the liking of the party, then there will be no finality to the statement already concluded.

6. The plea raised in the application is also vague that certain questions on vital aspects could not be asked. Thus, as the petitioner had full opportunity to cross-examine the witness through her duly appointed counsel, no case is made out to recall PW-1 B.P.S. Bakshi for further cross-examination. Thus, I do not find any illegality in the impugned order.

7. Resultantly, the present revision petition being without any merits is hereby dismissed.

08.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**