

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

CR No.8728 of 2016
Date of decision : 30.12.2016

Smt. Jyoti

...Petitioner

Versus

Smt. Harbhajan Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Ms. Himani Kapila, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved against the impugned order dated 22.09.2016, whereby the application for seeking permission to cross-examine the AW1 Smt. Harbhajan Kaur and AW2 Jaswant Singh whose evidence was closed by order dated 26.04.2016, has been dismissed. Copy of which has been handed over to this Court during the course of hearing of this petition.

Ms. Himani Kapila, learned counsel appearing on behalf of petitioner submits that the absence of the counsel was not within his control as petitioner could not have cross-examine the aforementioned witnesses on his own. An effort was made to recall the order but the Court below has again committed illegality by dismissing the application. The petitioner is willing to cross-examine the aforementioned witnesses namely AW1 Smt. Harbhajan Kaur and AW2 Jaswant Singh subject to the terms and

conditions.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that though order would reveal that many opportunities have been given to the petitioner for cross-examination of the aforementioned witnesses but they did not avail the opportunity, resulted into passing of the order dated 26.04.2016. Order dated 26.04.2016 reads thus:-

“Present:- Sh. S.S. Sohal, Advocate, Counsel for petitioner.

None for respondent.

Case again called after lunch time and again.

PWs Harbhajan Kaur and Jaswant Singh are present for their cross-examination, but neither respondent nor her counsel has turned. Moreover, witnesses were also present for their cross-examination on the last date of hearing and on request of ld. Counsel for respondent, case was adjourned for cross-examination of above said witnesses for today. Therefore, I find no reason to adjourn the case for cross-examination of the witnesses. Hence, cross-examination of PW1 Harbhajan Kaur and AW2 Jaswant Singh is treated as nil. Therefore, ld. Counsel for petitioner closed oral evidence. Now to come upon 12.05.2016 for tendering documents.

Sd/- Madan Lal

CJSD/GSP/26.04.2016”

Though effort was made to recall the order but the Court below has dismissed the application by observing that they had to avail the remedy under the law by filing the revision or otherwise.

I deem it appropriate to allow the present revision petition and

grant one opportunity to the petitioner to cross-examine the aforementioned witnesses namely Smt. Harbhajan Kaur AW1 and Jaswant Singh AW2, subject to payment of cost of ₹5,000/-. which shall be condition precedent. If the costs is not paid as directed, the order passed already by the Courts below shall stands restored.

With the aforementioned observations, impugned order is set aside and present revision petition stands allowed.

30.12.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No