

CR No. 2268 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No. 2268 of 2017 (O&M)

Date of decision: 29.3.2017

Mohanjit Kaur

...Petitioner

Versus

Sukhwinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Beant Singh Seemar, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition filed under Article 227 of the Constitution of India, at the hands of defendant, is directed against the order dated 1.3.2017 (Annexure P-5), passed by the learned trial court, whereby application filed by the petitioner under Section 151 of the Code of Civil Procedure ('CPC' for short), was dismissed and her prayer for recalling PW-1 namely Harjinder Singh was declined.

Placing reliance on the judgment of the Hon'ble Supreme Court in **K.K. Velusamy Vs. N. Palanisamy, 2011 (2) RCR (civil) 875**, learned counsel for the petitioner submits that it was in the interest of justice that one more opportunity ought to have been granted to the petitioner to cross-examine PW-1, by recalling him in the court. He prays for setting aside the impugned order, by allowing the present revision petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the

CR No. 2268 of 2017 (O&M)

considered opinion that the impugned order deserves to be upheld, as the same has not been found suffering from any illegality. To say so, reasons are more than one, which are being recorded hereinafter.

It is matter of record that PW1-Harjinder Singh was made available to the petitioner-defendant for the purpose of his cross-examination on 28.9.2016. Thereafter, PW-1 Harjinder Singh was further cross-examined on 5.10.2016. Again on 18.10.2016, he was cross examined. Finally, Harjinder Singh was cross examined, at the instance of the petitioner-defendant, on 3.11.2016. However, petitioner is still not satisfied. Further, while filing application under Section 151 CPC for recalling PW1-Harjinder Singh, petitioner did not even refer to, as to what were the documents which could not be put to PW1 at the time of his repeated cross examinations. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Coming to the judgment of the Hon'ble Supreme Court in K.K. Velusamy's case (supra), relied upon by learned counsel for the petitioner, there is no dispute about the law laid down and observations made therein. However, on a close perusal of the cited judgment, it has not been found to be of any help to the petitioner, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundara Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and**

CR No. 2268 of 2017 (O&M)

others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.

The learned trial court has passed a self contained order dated 1.3.2017. The impugned order has been found duly supported by the sound reasons. It is neither pleaded nor argued case on behalf of the petitioner that signatures of Ujagar Singh were not known to her earlier. In this view of the matter, it can be safely concluded that the learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

29.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No