

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

**CRM-M-28482-2017
Date of decision: 08.08.2017**

Heena

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Aman Pal, Advocate &
Ms. Aashna Gill, Advocate,
for the petitioner.

Mr. Manish Soni, Advocate,
for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 16.05.2017 passed by the learned Additional Sessions Judge affirming the order dated 26.04.2017, passed by the JMIC, Gurugram, whereby the request of the petitioner-complainant for her further examination-in-chief, has been declined.

In brief, the facts of the case are that on 12.11.2002, the marriage between the petitioner-complainant and respondent No. 2 was solemnized, as per Hindu rites and rituals. Out of this wedlock, two children were born. The custody of the children is with the petitioner-complainant. On account of demand of dowry, physical and mental harassment, an FIR bearing No. 36 dated 15.02.2012, under Sections 323, 498-A, 406, 506 and 34 of the IPC was registered at Police Station DLF, Phase-II, Gurugram in which trial is going on.

It is contended by the counsel for the petitioner that the petitioner-complainant underwent examination-in-chief on 06.04.2015 and had moved an application dated 20.02.2017 for deposing further in her chief examination as well as to exhibit photographs and her complaint. The learned trial Court had allowed the said application by an order dated 27.02.2017, however, when the petitioner-complainant appeared on 26.04.2017, she was not allowed to depose further in her examination-in-chief and was straight forwardly subjected to cross-examination and only photographs were exhibited with the case file. It is also contended that once the application for further deposing in examination-in-chief was allowed on 27.02.2017, the trial Court could not have reviewed its own order by passing the impugned order dated 26.04.2017. Against the order dated 26.04.2017, a revision petition was preferred before the Additional Sessions Judge, which too was dismissed. Aggrieved against the order dated 26.04.2017 and dismissal of the revision petition, the instant petition has been filed.

Notice of motion to respondent No. 2 only.

Mr. Manish Soni, Advocate, who is present in Court, accepts notice on behalf of respondent No. 2 and filed his *Vakalatnama*.

I have heard learned counsel for the parties and have also perused the record of the case.

Admittedly, the petitioner-complainant moved the application dated 20.02.2017 for recalling her for further examination-in-chief prior to cross examination as well as to exhibit some photographs on the ground that she, being a layman, was not aware of the proceedings of the case and have not deposed the entire facts.

I have gone through the order dated 26.04.2017, whereby the request of the petitioner-complainant for allowing her to depose further in examination-

in-chief, was declined. While passing the said order, learned trial Court has quoted its earlier order dated 27.02.2017, whereby the said application was allowed only to the extent of exhibiting the photographs. The petitioner was subjected to cross-examination and it is only thereafter a request has been made to permit the petitioner to state further in chief examination. The argument that the application also sought permission to record chief examination and by order dated 27.02.2017 it was allowed, would not be sustainable in view of the order specially allowing photographs to be exhibited. A perusal of the order dated 27.02.2017 shows that while allowing the application dated 20.02.2017, learned JMIC has clearly observed that *“the complainant only seeks to exhibit the photographs which are already attached with the case file. No prejudice shall be caused to any of the party if the photographs are allowed to be exhibited. Moreover, learned counsel for the accused did not object to the exhibiting of the photographs as he did not file any reply to the application.”* It shows that the application was partly allowed to the extent for exhibiting the photographs and not for the petitioner-complainant to depose further in the examination-in-chief.

In view of the above, this Court finds no infirmity in the impugned orders so passed.

Accordingly, the present petition stands dismissed.

August 08, 2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No