

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

CRR(F) No.261 of 2017(O&M)

Date of Decision: July 10, 2017

Sanjay Kumar

...Petitioner

Versus

Mrs. Anshu

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Shiv Kumar, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

This petition has been filed by the petitioner-respondent for setting aside the order dated 20.04.2017, by which, the opportunity to cross-examine the respondent-petitioner was closed.

It is contended that on the date, when the impugned order was passed, the petitioner-respondent was present in person, however, cross-examination of respondent-petitioner could not be done due to non-availability of the counsel. It is urged that a litigant cannot be made sufferer, due to lack of attention by his counsel, therefore, one opportunity should be given to cross-examine the respondent-petitioner Anshu in proceedings under Section 125 Cr.P.C. It is also submitted that no prejudice would be caused to the respondent-petitioner except some delay, for which

she can be compensated in terms of money. It is stated that the maintenance amount has been paid to the respondent uptill date.

I have heard learned counsel for the petitioner.

Without issuing notice to the respondent-petitioner, this court is inclined to allow the petition. A reading of the impugned order would reveal that the cross-examination of the respondent could not be done on account of non-availability of the counsel, who was busy elsewhere. The petitioner can not be made to suffer on account of the non-appearance of the counsel, no prejudice will be caused to the respondent who is claiming maintenance, and she can be compensable in loss of costs. Accordingly, the learned trial court is directed to grant one last opportunity to the petitioner-respondent to cross-examine the respondent-petitioner Anshu, subject to payment of Rs.6,000/- as costs to be paid to the respondent herein.

The petition stands allowed with the aforesaid directions.

July 10, 2017

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No