

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 1015-2018 (O&M)

Date of decision: 15.02.2018

Subhash Chand

.....Petitioner

versus

Phoolpati @ Suman and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner

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

Kuldeep Singh, J. (Oral)

Impugned in the present revision is the order dated 2.2.2018 (Annexure P1) passed by learned Additional Civil Judge (Senior Division), Kaithal, vide which, application to recall Priyanka (PW2) in rebuttal evidence for the purpose of cross-examination was declined.

It comes out that on 18.11.2017 statement of Priyanka (PW2) was being recorded in rebuttal evidence. At that time, some objections were raised by counsel for the defendant and the same were rejected by the Court. Thereafter, counsel for the defendant stated to the Court that opportunity for cross-examination of the witness be treated as nil as he intends to file revision against the said order rejecting the objections. Accordingly, the Court treated the opportunity as nil. Revision against the said order was filed and the objections were ordered to be kept open. Now, defendant filed an application for recalling the witness for cross-examination. The trial Court has taken a view that since, it was treated as

nil on the statement of counsel for the defendant, therefore, no opportunity is to be granted.

I am of the view that once objections to some issues raised while recording evidence were rejected, the defendant could file the revision but that was itself no ground not to cross-examine the witness. It appears that the counsel wanted to put undue pressure on the Court to adjourn the case and when he did not succeed, he told the Court to treat the opportunity as nil, which was accordingly done. This was in fact bullying the Court.

Learned counsel for the petitioner contends that for the fault of the lawyer, the party should not suffer and that the witness is required to be cross-examined. Cross examination may be allowed subject to costs.

It is found that the opportunity was rightly treated as nil. However, in order to ensure that no injustice is caused to the defendant due to action of the lawyer and in order to ensure that there is no further delay in the disposal of the case, without issuing notice to the opposite party, one opportunity is granted to the cross-examine the said witness Priyanka (PW2) subject to the payment of costs of Rs.10,000/- to the plaintiff.

Revision is allowed accordingly.

15.02.2018

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:	Yes
Whether Reportable:	No