

247+259

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

CR-4389-2018 (O&M)

Date of Decision: 21.08.2018

Neelam Devi

.....Petitioner

versus

Rajni Basra

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harneet Singh Oberoi, Advocate
for the applicant/petitioner.

None for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner is aggrieved of order dated 05.07.2018 passed by the Additional Civil Judge (Senior Division), Phagwara vide which opportunity to cross-examine two of the witnesses namely, Rajni Basra and Raj Kumar was treated to be nil.

Notice of motion was issued on 12.07.2018. Office report shows that respondent has been duly served by ordinary process of the Court. However, there is no representation on behalf of the respondent.

Learned counsel while referring to interlocutory

orders dated 27.02.2017, 27.04.2017, 10.08.2017, 01.11.2017, 22.01.2018 and 05.04.2018 passed by the Trial Court contends that no PW was present on the aforesaid dates. It was only on 05.07.2018, there was an omission on the part of the petitioner in not cross-examining PW-1-Rajni Basra and PW-2-Raj Kumar. The aforesaid reason was not sufficient to pass the impugned order treating the cross-examination of PW-1 and PW-2 to be nil at the instance of the defendant/petitioner.

In view of the facts and circumstances of the case, I deem it appropriate to grant one opportunity to the petitioner to cross-examine PW-1 and PW-2 on the date fixed by the Trial Court, however, subject to payment of costs of Rs.5,000/- to be paid to the respondent.

Ordered accordingly. Consequently, impugned order dated 05.07.2018 passed by the Additional Civil Judge (Senior Division), Phagwara is set aside. Revision petition is allowed.

Payment of costs shall be the condition precedent in granting indulgence by the Trial Court in fixing date for cross-examination of PW-1 and PW-2.

Since the main case is decided, therefore, there is no need of passing any order in CM No.15694-CII of 2018 for modification in the order dated 12.07.2018.

**(RAJ MOHAN SINGH)
JUDGE**

21.08.2018

Neha

Whether Speaking/Reportable : Yes/No

Whether Reportable : Yes/No