

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

CRR-3181-2016 (O&M)

Date of Decision: October 31, 2018

Jasbir Singh and another

Petitioners

Versus

State of Punjab and another

...Respondent(s)

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Amardeep Singh Gill, Advocate
for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab

Mr. S.K.Bawa, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

This is a civil revision petition that has been filed seeking to challenge the order dated 04.06.2016, by which the Additional Sessions Judge, Jalandhar has allowed the application of the complainant- Rajbir Kaur to record her evidence through video conferencing.

In brief, the facts of the case are that Rajbir Kaur (a resident of Australia) solemnized marriage with Karamvir Singh, however the marriage did not survive for any length of time, the complainant-Rajbir Kaur initiated a case under the Domestic and Family Violence Act, 1989 and sought a protection order from her husband Karamvir Singh. An FIR was also

registered at Police Station Goraya, District Jalandhar city bearing FIR No.35 dated 09.03.2012 under Sections 406, 498A of Indian Penal Code alleging that her marriage had been performed in India on 21.03.2009 and at the time of marriage her parents had given sufficient dowry as per their capacity and financial status. Details of the dowry given as well as the marriage expenditure were detailed in the FIR. Details of the harassment meted out to her were also specified in the FIR. Eventually a decree of divorce was obtained between the parties on 12.09.2013. In the proceedings that had been initiated under the aforesaid FIR, the complainant moved an application for having her statement recorded through video conference, which application was dismissed by the JMIC, Jalandhar vide order dated 12.12.2014. Being aggrieved by the order dated 12.12.2014, the complainant filed a revision petition before the Sessions Judge, Jalandhar which was allowed by the Additional Sessions Judge, Jalandhar. Aggrieved by the said order, the petitioner herein has filed the instant petition challenging the order dated 04.06.2016 passed by the Additional Sessions Judge, Jalandhar.

Learned counsel appearing on behalf of the petitioner contends that the allegations as set out in the FIR are totally incorrect and he has been falsely implicated in the said case. It is further contended that from the very beginning the attitude of the complainant was stubborn and non-cooperative and only to harass the petitioner and his family members that the present FIR is being proceeded under. It is argued that charges have been framed but the complainant is not coming forth to have her statement recorded. It is further argued that no cogent reasons have been made as to

why the complainant cannot travel to India. It is also argued that the petitioner herein has not created any hindrance in her travel as put forth in the application seeking evidence to be recorded through video conference.

Per contra learned counsel appearing on behalf of the complainant-respondent submits that the complainant has a minor daughter- Mannat and there is no one else other than herself to look after her daughter and if she is made to travel to India, the minor child would suffer in her studies.

I have heard the learned counsel for the parties and have perused the record and the impugned order.

The Additional Sessions Judge, Jalandhar has allowed the application of the complainant-applicant by taking note of the fact that the minor daughter is school going and it would be difficult for the complainant to leave her alone and travel to India to have her evidence recorded. Reliance was placed upon judgment rendered by the Apex Court in **State of Maharashtra vs. Dr. Praful B. Desai and another, 2003(2) 434, RCR(crl.) 770** in which it was held that evidence by way of video conference can be recorded.

“Thus in cases where the witness is necessary for the ends of justice and the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case would be unreasonable, the Court may dispense with such attendance and issue a commission for examination of the witness. As indicated earlier Dr. Greenberg has refused to come to India to give evidence. His evidence appears to be necessary for the ends of Justice. Courts in India cannot procure his attendance. Even otherwise to procure attendance of a witness from a far of country like USA

would generally involve delay, expense and/or inconvenience. In such cases commissions could be issued for recording evidence. Normally a commission would involve recording evidence at the place where the witness is. However advancement in science and technology has now made it possible to record such evidence by way of video conferencing in the town/city where the Court is. Thus in cases where the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience the Court could consider issuing a commission to record the evidence by way of video conferencing.”

Once the Apex Court itself has permitted that the evidence can be recorded through video conference, the only thing remains to be seen is whether there is any infirmity in the order so passed. Taking into account the fact that the complainant has a minor child who is school going, it would definitely cause her certain hardship to travel to India on account of having to leave the minor child alone or bear the necessary expenditure of getting a visa and tickets for both. Recording of evidence through video-conferencing is a recognized method of getting the evidence recorded hence this hardship can certainly be avoided by allowing the evidence to be recorded through video conference.

Therefore, I do not find any infirmity in the order dated 04.06.2016 passed by the Additional Sessions Judge, Jalandhar and dismiss the present revision petition.

Dismissed.

October 31, 2018
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No