

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

**CRR(F)-770-2022 (O&M)
Date of Decision: 16.09.2022**

NIRMAL SINGH

... PETITIONER

V/S

DALJEET KAUR

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

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VIVEK PURI, J. (ORAL)

CRM-34719-2022

This is an application for placing on record the copies of the interim orders as Annexures P-2 to P-5. The same are allowed to be taken on record.

Registry is directed to tag the same at the appropriate place.

Disposed of.

Main case

The petitioner has assailed the order dated 25.07.2022 passed by the Court of learned Principal Judge, Family Court, Ambala vide which the evidence of the petitioner-husband was closed by the order of the Court.

Learned counsel for the petitioner contends that sufficient opportunities have not been granted to the petitioner to produce his evidence. The affidavits of the petitioner as RW1 and one of the witnesses namely Raj Kumar have already been placed on record. The petitioner only intends to examine himself and Raj Kumar, RW during the

course of his evidence. The case was fixed in the trial Court for 13.07.2022

for evidence of petitioner. The petitioner had met with an accident on that date which prevented him from putting appearance in the Court. Annexure P-1 is the prescription slip which also indicates that the petitioner had taken treatment from Civil Hospital, Sector 6 Panchkula on 13.07.2022.

The respondent is the wife of the petitioner and she has instituted the petition under Section 125 Cr.P.C. for enforcing her claim for maintenance. The respondent (wife) had concluded the evidence on 25.05.2022. The case was adjourned to 02.06.2022 for evidence of the respondent. It was further directed that the petitioner shall supply the copy of the affidavit(s) of the witness(es) in advance to the learned counsel for the respondent.

On 02.06.2022, the affidavits, Ex. RW1/A and Ex. RW2/A of the petitioner and Raj Kumar, RW were tendered in evidence. The cross-examination was deferred on the request of the learned counsel for the respondent-wife as she had received the copies of affidavits on that date only and intended to go through the same. Accordingly, the case was adjourned to 13.07.2022 for cross-examination of the witnesses and last opportunity was granted.

On 13.07.2022, no witness on behalf of the petitioner-husband was present and last opportunity was granted for the evidence of the petitioner and the case was adjourned to 25.07.2022. On 25.07.2022 by virtue of the impugned order, the evidence of the petitioner was closed. It was observed in the order that learned counsel for the petitioner had suffered a statement that despite his best efforts to contact the petitioner on his mobile number, he could not be contacted as the phone was switched off and even he has no contact with the petitioner since the last date of hearing

i.e. 13.07.2022.

It may be mentioned here that there is material on record to indicate that on 13.07.2022, the petitioner could not appear in the trial Court on account of some health issues. Furthermore, only 2 other effective opportunities have been afforded to the petitioner to produce the evidence. The affidavits of the petitioner and his witness are already on record and they are to be cross-examined by the respondent. It shall be appropriate if an opportunity is granted to the petitioner to submit himself and the witness for the purpose of cross-examination so that the controversy is adjudicated on merits. For the lapse on the part of the petitioner in not putting appearance in the Court on 25.07.2022, he can be burdened and the respondent can be compensated with cost.

In these set of circumstances, the impugned order is set aside subject to payment of Rs. 5,000/- as cost to the respondent-wife. It is further directed that the learned trial Court shall grant one effective opportunity to the petitioner to produce himself and Raj Kumar in the Court for cross-examination at his own risk and responsibility.

The order has been passed without issuance of the notice to the respondent to avoid any further delay in the matter.

Disposed of.

16.09.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No