

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

124

CR-4168-2022

Date of decision: 28.09.2022

Iqbal Singh

.....Petitioner

Versus

Meena Rani and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Avtar Singh Syan, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner/defendant is impugning the order dated 13.07.2022 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Divn.), Patiala whereby the application of the petitioner filed for cross-examination of PW1 was dismissed.

Learned counsel submits that on 02.07.2019, counsel for the petitioner was busy in another Court, therefore, he could not cross-examine PW1. The application moved by the petitioner to set aside the order dated 02.07.2019 was dismissed by the learned Trial Court on the ground that the cross-examination dated 02.07.2019 shows that no question was put to PW1 and zimni order itself shows that presence of petitioner's counsel was marked and since he did not put any question, the cross-examination was concluded. He submits that a compassionate view be taken and one last effective opportunity may be granted to the petitioner to cross-examine PW1.

I have heard learned counsel and perused the relevant material on record.

The petitioner was granted several opportunities to cross-

examine PW1, however, he failed to do so.

Be that as it may, if the petitioner is not granted one more opportunity to cross-examine PW1, he would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to cross-examine PW1.

In the wake of the above, without issuing notice to the respondents, to avoid any further delay as well as expenses which the respondents shall have to incur to defend these proceedings, the impugned order dated 13.07.2022, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to cross-examine PW1.
2. In the event of default by the petitioner, the case shall not be adjourned any further for cross-examining PW1 and consequently opportunity to cross-examine this witness be deemed to be as nil.
3. This, however, shall be subject to payment of costs in the sum of Rs.5,000/- to be paid to the respondents which shall be a condition precedent.

28.09.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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