

CR-1274-2017 (O&M)

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2023:PHHC:048362

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

CR-1274-2017 (O&M)

Date of Decision:10.04.2023

Amarjit Kaur and another

.....Petitioners

Versus

Harjit Singh (since deceased) through L.Rs.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Navkesh Singh Goraya, Advocate for the petitioners.

Mr. Ankush Rampal, Advocate for

Mr. Rahul Rampal, Advocate for respondents.

HARSIMRAN SINGH SETHI J.(Oral)

The present civil revision has been filed challenging the impugned order dated 10.01.2017 (Annexure P-4) passed by the Court below by which, an application filed on behalf of the respondent-defendant to recall the prosecution witnesses No.1 and 3 for cross examination has been allowed.

Learned counsel for the petitioner argues that both the prosecution witnesses were present in the Court but their cross examination was not conducted by the respondents-defendants and now after a period of three years they have moved an application to cross examine the said witnesses and the delay itself dis-entitles the grant of the relief, which has been allowed by the Trial Court in their favour by passing the impugned order dated 10.01.2017.

Learned counsel appearing on behalf of the respondents-defendants submits that their earlier counsel did not cross examine the witnesses due to which they have changed their counsel and the said act on the part of the counsel, should not bind the respondents-defendants and by the impugned order, only the witnesses have been recalled to be cross examined and no prejudice caused has been shown except the delay, for which the petitioner can be compensated monetarily by the respondents-defendants.

I have heard the learned counsel for the parties and have gone through the record with their able assistance.

In the present petition it has come on record that the counsel engaged by the respondents-defendants did not cross examine the witnesses with no reason coming on record but the litigant should not be made to suffer for any act on the part of the counsel.

Further, in order to challenge any order, prejudice being caused to a party concerned has to be shown. In the present case, no prejudice except the delay has been projected before this Court. Mere delay, which can be compensated monetarily, cannot come in the way to do justice between the parties.

Keeping in view, no ground is made out for interference by this Court in the impugned order, however, as undertaken by the learned counsel, apart from the costs of Rs.1500/-each to be paid to the prosecution witnesses, who are ordered to be recalled, the respondents are also burdened with a sum of Rs.10,000/- as costs to be paid to the petitioners for the delay which has been caused due to their act so as to compensate the petitioner for the delay which has occurred.

It may be noticed that the costs of Rs.10,000/-imposed will be paid to the petitioners before the recalling of the witnesses in question.

Present petition is dismissed with observations noticed hereinbefore

(HARSIMRAN SINGH SETHI)
JUDGE

10.04.2023

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