

CR No.881 of 2023

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

CR No.881 of 2023

Date of decision : 08.02.2023

Sant Gurjant Singh

.....Petitioner

VERSUS

Surjit Singh and others

....Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jai Bhagwan, Advocate,
for the petitioner.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the challenge is to the order dated 31.01.2023 (Annexure P-6) by which, the application filed by the petitioner-applicant under Order 18 Rule 17 of CPC to recall the witness DW-1 – Surjit Singh for further cross-examination has been dismissed by the trial Court.

Learned counsel for the petitioner argues that on the date when DW-1 appeared for cross-examination i.e. 07.12.2022, he was not put with required questions in the cross-examination so as to elicit truth in the testimony of the said witness. Hence, another opportunity be given to the petitioner to cross-examine the said witness i.e. DW-1. The said application has been dismissed by the trial Court by the impugned order dated 31.01.2023, which is under challenge in the present civil revision.

I have heard learned counsel for the petitioner and have gone through the record.

The only argument which has been raised in the present petition

is that the required questions in cross-examination could not be put to DW-1 when the said witness was cross-examined on 07.12.2022 hence, further opportunity be granted to the petitioner to cross-examine the said witness. The declining of the said prayer by the trial Court vide order dated 31.01.2023 cannot be treated as arbitrary or illegal. It is not the case of the petitioner that due opportunity to cross-examine DW-1 was not given when the said witness was cross-examined. The only argument raised in this petition is that the learned counsel appearing before the trial Court on behalf of the petitioner failed to put the required questions during the cross-examination of the said witness, which fact clearly shows that neither the defendant nor anybody else was at fault or this petition was prevented in any manner to cross-examine the witness concerned in any manner. Hence, the reason given in the application for recalling the witness DW-1 for cross-examination is not well founded or justifiable to be allowed.

Even otherwise, nothing has been mentioned either in the application or has come to the notice of this Court during the day as to what factual aspect, which needed to be clarified by the petitioner in the cross-examination of the witness, which could not be put to the witness concerned. The application filed by the petitioner was totally cryptic and only reason stated is that the cross-examination of DW-1 could not be carried out effectively and material questions could not be put to the said witness, hence, another opportunity be granted to the petitioner to cross-examine the said witness by recalling him. In the absence of any valid justification and keeping in view the reasons mentioned in the application, reason stated therein cannot be treated as a justifiable reason.

CR No.881 of 2023

In the facts and circumstances of the present case, no interference is called for by this Court in the interlocutory order dated 31.01.2023 passed by the trial Court. The present revision petition, therefore, stands dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

08.02.2023

Nisha-I

Whether speaking/reasoned	Yes
Whether reportable	No