

CR-1421-2023 (O&M)

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

Sr. No.302

**CR-1421-2023 (O&M)
Date of Decision: 02.05.2023**

DR. RICHA PUNJ

....Petitioner

Versus

DR. PANKAJ PUNJ

..... Respondent

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Anoop Verma, Advocate,
for the petitioner.

Mr. Rishabh Gupta, Advocate,
for the respondent.

ARCHANA PURI, J. (ORAL)

Petitioner as well as father of the respondent are present in the Court today, along with their respective counsel.

In consonance with the order dated 20.04.2023 passed by this Court, efforts have been made for amicable settlement between the parties, but however, it proved to be a futile exercise.

As such, arguments of learned counsel for the parties heard.

Challenge in the present revision petition is to the orders dated 07.10.2022 as well as 17.01.2023 passed by the Court below.

CR-1421-2023 (O&M)

Vide order dated 07.01.2023, the request made by the counsel for the petitioner/wife (who is respondent before the Family Court) for further adjournment of the case for conducting of remaining cross-examination, as some documents were to be put to the witness, was declined by the Court below. Further, vide order dated 17.01.2023, the opportunity for conducting of cross-examination of two witnesses i.e. PW-2, Pallavi Khanna and PW-3, Dr. Avnish Bhagat, was treated as '*Nil*'.

During the pendency of the petition under Section 13 of Hindu Marriage Act, filed by the present respondent/husband, Dr. Pankaj Punj, at the stage of the production of witnesses, the said respondent, who is husband had stepped into the witness-box as PW-1. However, on 07.10.2022, when Dr. Pankaj Punj was present for his cross-examination since 10:00 a.m., the respondent before the Family Court (the petitioner herein), who was present in the Court had not conducted the cross-examination by herself or through counsel and from the pre-lunch session, the case was adjourned to the post-lunch session and at that time also, the cross-examination was not conducted. The respondent therein (who is petitioner in the present petition), had requested to adjourn the case for remaining cross-examination, as certain documents were to be put to the witness for cross-examination. On query by the Court below, the counsel failed to mention about the detail of any specific document, sought to be put to the witness. In these circumstances, it was concluded by the Family Court that there is no justifiable reason for further cross-examination of the witness, PW-1, Dr. Pankaj Punj, and thus, the request was declined.

CR-1421-2023 (O&M)

Thereafter, on 17.01.2023, two witnesses i.e. PW-2, Pallavi Khanna and PW-3, Dr. Avnish Bhagat, were present for cross-examination since 10:00 a.m. and again, despite the case having been called repeatedly, the cross-examination of the said witnesses was not conducted by the petitioner/wife, even though, she was present in the Court in person. In fact, her counsel had not made appearance on the said date. Similarly, as in the case of cross-examination of PW-1, Dr. Pankaj Punj, the case was adjourned from pre-lunch session to the post-lunch session and the said witnesses i.e. PW-2 and PW-3, as mentioned aforesaid, were not cross-examined till 4:00 p.m. and as such, the opportunity was treated as '*Nil*' and the oral evidence, at the behest of the husband was closed. The case was thereafter fixed for production of documentary evidence.

Feeling aggrieved of the aforesaid orders, *vis-a-vis* not providing an opportunity for conducting of cross-examination of PW-2 and PW-3 and also being deprived of the opportunity having not been given for putting the documents to the husband in cross-examination, the petitioner/wife has filed the present revision petition.

Now, it is submitted by learned counsel for the petitioner that prior to 07.10.2022, the request for adjournment was made, as the counsel for the petitioner/wife was having heart ailment and thereafter, the case was adjourned further, but however, the cross-examination could not be completed and the impugned order was passed. Likewise also, it is submitted that from the zimini orders, which have been placed on record, it is evident that PW-2 and PW-3, namely, Pallavi Khanna and Dr. Avnish Bhagat, respectively, were present and their cross-examination was deferred

CR-1421-2023 (O&M)

on request of the counsel for the petitioner/wife.

However, the case was adjourned further, as the counsel for the petitioner/wife had pleaded no instructions on behalf of the wife and as such, he withdrew his Power of Attorney. At that time, the case was fixed for 09.12.2022 and the next date given was 03.01.2023. Perusal of the order dated 03.01.2023 reveals about the cross-examination having not been conducted, though, the witnesses i.e. PW-2 and PW-3 were present, as an application for adjournment was filed by the petitioner/wife, thereby apprising the Court below that her mother had expired. Then, the case was adjourned to 17.01.2023, when the impugned order was passed.

It is now submitted by learned counsel for the petitioner that it was only under the constrained circumstances that the petitioner could not conduct the cross-examination of the witnesses at first instance, as the documents were to be put to the respondent/husband for conducting the cross-examination and thereafter, two witnesses were not cross-examined on account of the counsel suffering from heart ailment and further, on account of death of mother of the petitioner herein, having taken place before the date fixed in the case in hand. Also, it is submitted that the petitioner could not engage the counsel before the Court below due to these constrained circumstances.

In the given circumstances, on query by the Court, it has been disclosed by learned counsel for the petitioner/wife that only such documents are to be put to PW-1, Dr. Pankaj Punj, which relate to the expenditure of the petitioner/wife, *vis-a-vis* the upbringing of two daughters of the parties to the lis. Learned counsel has given an undertaking that no

CR-1421-2023 (O&M)

further cross-examination shall be conducted qua other aspects, as exhaustive cross-examination has already been conducted.

In the given circumstances, considering the constrained circumstances, as noticed aforesaid and also in view of the petition of matrimonial dispute ought to be decided expeditiously, without prejudice to the rights of the parties to be adjudicated on merits, it would be appropriate if only one opportunity is granted to the petitioner/wife to conduct cross-examination of PW-1, Dr. Pankaj Punj, *vis-a-vis* the documents sought to be put in the cross-examination, as well as conduct cross-examination of PW-2, Pallavi Khanna and PW-3, Dr. Avnish Bhagat.

As the respondent/husband is stated to be a resident of Dubai, it shall be in the interest of all the parties, if cross-examination is conducted on one date only. This is so acceptable to learned counsel for the petitioner as well as respondent.

Considering the same, learned counsel for both the parties have verified about suitability of the date, on which the proceedings shall be conducted before the Family Court and they have agreed that it shall be suitable to the parties concerned to conduct further cross-examination of all the three witnesses on 03.07.2023.

Considering the same, the instant revision petition is hereby allowed, with the direction to the petitioner as well as respondent to make appearance before the concerned Family Court on 03.07.2023 at 10:00 a.m., subject to payment of Rs.30,000/-, as costs, by the petitioner/wife to the respondent/husband. Also, the respondent/husband shall ensure the presence of PW-2, Pallavi Khanna and PW-3, Dr. Avnish Bhagat, on the said date.

CR-1421-2023 (O&M)

On appearance of the parties to the lis and witnesses on 03.07.2023, the Family Court shall conduct the cross-examination of all the aforesaid witnesses i.e. PW-1, Dr. Pankaj Punj, PW-2, Pallavi Khanna and PW-3, Dr. Avnish Bhagat, on that very date. However, if for some constrained circumstances, the cross-examination is not conducted on that date, then the cross-examination shall be conducted, within a period of 4 working days thereafter.

Accordingly, the instant revision petition stands disposed of.

02.05.2023
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No