

111

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

CR-2690-2023 (O&M)

Date of Decision: 02.05.2023

Shivani Verma

....Petitioner

Versus

Rahul Verma

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Atul Yadav, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is to set aside order dated 28.03.2023 (Annexure P-7) passed by Ld. Additional Principal Judge, Family Court, Gurugram, whereby the opportunity to cross examine the PWs by the petitioner's counsel has been struck off.

2. Brief facts which are important for adjudication of the present lis are that this is a matrimonial dispute. The petitioner has filed a petition under Section 125 Cr.P.C. as well as petition under Sections 12, 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005. Allegedly, as a counter-blast to the said proceedings, the respondent has filed a petition under Section 13 of Hindu Marriage Act for grant of decree of divorce against petitioner. Upon notice, the petitioner filed a reply to the petition under Section 13 of the Hindu Marriage Act through Ms. Vaishali Chaudhari, Advocate, Gurugram, controverting the plea of respondent. Petitioner also filed a separate application under Section 24 of Hindu Marriage Act.

2.2. On 28.03.2023, concerned Clerk of Sheetal Vidhya Peeth School was given up and the remaining three PWs namely PW1 Hiten Kumar, PW2 Bhagwan Dass and Rihit Kumar appeared on 28.03.2023 before the Ld. Trial Court and the Ld. Court asked LC Kavita Rani to record their evidence. When counsel for the

respondent was trying to record the evidence of witnesses through LC as per their dictation, then some proxy counsel Sh. Amit, who was never engaged by the petitioner, appeared and allegedly raised objections over the way in which the statements of PWs were being recorded. Ld. Trial Court due to alleged conduct of the said proxy counsel struck off the opportunity to cross-examine the said witnesses and adjourned the case.

3. Learned counsel for petitioner would argue that neither the petitioner engaged said Sh. Amit, Advocate nor she ever authorized him to conduct her case. Petitioner had engaged Sh. Vishali Chaudhari, Advocate.

4. Given the nature of order being passed, there is no necessity to issue notice to the respondent, as no serious prejudice would be caused to him. Notice to respondent herein is thus dispensed with.

5. I have heard learned counsel for petitioner and gone through the case file.

6. For the lapse, if any, of the counsel or her proxy, the petitioner should not be made to suffer.

7. Keeping in view the facts and circumstances of the case, I deem it appropriate to grant two effective opportunities to petitioner to cross-examine the PWs, subject of course to the discretion of Ld. Trial Court to grant further opportunity depending upon the exigency of work.

7. Revision stands allowed in above terms and impugned order is set aside.

8. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 02, 2023
ashish

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No