

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

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**Criminal Revision (F) No.975 of 2023
Date of decision :-20.07.2023**

Sourav Aggarwal**.....Petitioner****Versus****Sheena****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

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

NIDHI GUPTA J. (Oral)

Prayer in this Criminal Revision Petition is for setting aside order dated 12.5.2023 passed by the learned Additional Principal Judge, Family Court, Camp Court at Khanna vide which the application for recalling the witness (PW1)/respondent herein for her cross-examination has been dismissed.

Learned counsel for the petitioner submits that on 06.12.2019 the matter was fixed for cross-examination of the respondent-wife but as the counsel for the petitioner was not available on that day, the matter was adjourned for 24.1.2020. When on 24.1.2020 the petitioner alongwith his counsel appeared before the Court for cross-examination of the respondent, they came to know that the cross-examination of the respondent-wife was marked as 'Nil' on the last date i.e. 06.12.2019. Thereafter, petitioner moved an application (Annexure P-1) for conducting cross-examination upon

respondent-wife, which was allowed vide order dated 10.3.2023 (Annexure P-2) subject to payment of costs of Rs.2000/- with condition that petitioner herein shall file his income affidavit before cross-examination and make payment of the amount due till date within two months, failing which the application shall be deemed to have been dismissed. The matter was adjourned for 28.4.2023. It is submitted that on 28.4.2023, the Presiding Officer was on leave, hence the matter was adjourned for 12.5.2023. On 12.5.2023, the petitioner was suffering with high fever and due to ill health he was unable to appear before the Court, therefore, his counsel has moved an application for adjournment alongwith petitioner's medical certificate but the same was dismissed by the Additional Principal Judge, Family Court, Camp Court at Khanna vide impugned order dated 12.5.2023. Learned counsel submits that due to the ill health, the petitioner could not appear and therefore was not at fault in the said circumstances. Learned counsel submits that the petitioner would suffer irreparable loss if the impugned order dated 12.5.2023 is not set aside. At the very outset, learned counsel submits that one effective opportunity may be granted to the petitioner to complete the cross-examination upon the respondent herein, as grave injustice will be caused to him if he is not permitted to do so.

After hearing learned counsel for the petitioner, issuance of notice of motion is dispensed with at this stage, as it will cause further delay in disposal of the case. Accordingly, keeping in view the above facts as canvassed by ld. Counsel for the petitioner, this petition is allowed and impugned order dated 12.5.2023 is set aside. The

learned Court below is directed to grant one effective opportunity to enable the petitioner to complete the cross-examination upon the respondent herein, however subject to payment of Rs.20,000/- as costs to be paid to the respondent herein.

Disposed of as above. Pending application, if any, also stands disposed of.

July 20, 2023

Vijay Asija

(**NIDHI GUPTA**)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No