

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

120

Criminal Revision No.1762 of 2023

Date of decision :-07.08.2023

Balbir Kaur

.....Petitioner

Versus

Diwan Singh and another

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

Prayer in this Revision Petition is for setting aside order dated 04.05.2023 passed by the learned Judicial Magistrate 1st Class, Nakodar, District Jalandhar vide which the evidence of the complainant has been closed by order.

Learned counsel for the petitioner submits that the petitioner had filed a criminal complaint bearing No.COMA-16-2014 titled as 'Balbir Kaur vs. Diwan Singh and another' under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the learned Judicial Magistrate 1st Class, Nakodar, District Jalandhar, in which the trial Court has issued summons to the respondents and in subsequent proceedings, an interim maintenance of Rs.17,000/- per month was fixed vide order dated 02.1.2019. It is submitted that thereafter the petitioner/complainant appeared as CW1, Prem Pal Teji as CW2 and Kanwar Sahib Singh as CW3 and their

examination-in-chief was recorded but for conducting cross examination upon these witnesses, learned counsel for the respondents/accused sought time and the matter was adjourned. It is submitted that on 13.4.2023 only CW2 Prem Pal Teji was cross-examined and the matter was adjourned to 20.4.2023 for cross-examination of CW1 and CW3. Learned counsel for the petitioner submits that on 20.4.2023, the petitioner/complainant, who is 72 years old lady and suffering from age related ailments, could not come to the Court due to health issue and case was further adjourned for 25.4.2023, on which date CW3 Kanwar Sahib Singh was cross-examined at some length but remaining was deferred for want of some documents and for remaining evidence, for 27.4.2023. On 27.4.2023, no CW was present and the case was adjourned to 04.5.2023 with last opportunity to adduce evidence. Learned counsel submits that on 04.5.2023, the petitioner/complainant due to ill health was bed ridden and could not appear before the Court for her cross-examination and the evidence was closed by the trial Court by court order.

Learned counsel further submits that the petitioner being an old lady, suffering from various age related ailments and due to ill health could not appear on 04.5.2023 before the learned trial Court and she would suffer irreparable loss if the impugned order dated 04.5.2023 is not set aside. At the very outset, learned counsel submits that one effective opportunity may be granted to the petitioner to complete her evidence, as grave injustice will be caused to her if she 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 04.5.2023 is set aside. The learned Court below is directed to grant one effective opportunity to enable the petitioner to complete her evidence, however subject to payment of Rs.5000/- as costs to be deposited with the State Legal Services Authority, UT Chandigarh.

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

August 07, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No