

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

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CR-6673-2023

Date of decision: 07.11.2023

Heera Kapoor @ Vishal

....Petitioner

Versus

Anju

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Ms.Parul Saini, Advocate,
Ms. Priya Malik, Advocate,
Mr. Deepak Saini, Advocate and
Mr. Pritam Singh Saini, Advocate for the petitioner.

AMARJOT BHATTI, J.

1. The petitioner Heera Kapoor @ Vishal has filed civil revision under Article 227 of the Constitution of India for quashing of order dated 26.10.2023 (Annexure P-4) vide which the learned Additional Principal Judge, Family Court, Panipat has wrongly concluded that the proceedings under Hindu Marriage Act is a summary trial and there is no need to cross-examine the witnesses. As a result the evidence of the petitioner was closed and the case was straight way fixed for respondent evidence. The copy of plaint seeking divorce under Section 13 of Hindu Marriage Act is Annexure P-1, copy of written statement is Annexure P-2, copy of zimni order dated 07.10.2023 is Annexure P-3 and copy of impugned order dated 26.10.2023 is Annexure P-4. It is prayed that the divorce petition is contested by the petitioner. He has not been given opportunity to cross-examine the witnesses

which has cause great prejudice to the petitioner. Therefore, the impugned order dated 26.10.2023 (Annexure P-4) may kindly be set aside by giving direction to the learned Additional Principal Judge, Family Court, Panipat to give opportunity to the petitioner to cross-examine the witnesses.

2. I have considered the arguments advanced by learned counsel for the petitioner. I have gone through the order dated 07.10.2023 (Annexure P-3) and on this date two witnesses namely Anju the petitioner and Gopal Dass had tendered their affidavits into evidence and the case was adjourned for their cross-examination for 26.10.2023. On that day, surprisingly instead of giving opportunity to the present petitioner/respondent to cross-examine the witnesses, the learned Additional Principal Judge, Family Court, Panipat wrongly concluded that it is a summary trial, therefore there is no need to cross-examine the witnesses. The evidence of the petitioner was closed and it was fixed for respondent evidence. Once the statements of witnesses were tendered into evidence by way of affidavit on oath, the learned Additional Principal Judge, Family Court was duty bound to provide opportunity to the respondent to cross-examine the said witnesses. In a contested case, unless or until the witnesses are cross-examined, the affidavits tendered into evidence cannot said to be a complete statement and the same cannot be looked into. Section 137 to Section 139 Chapter X of the Indian Evidence Act, 1872 deals with the examination of witnesses. The examination as well as cross-examination of a witness relate to the relevant facts involved in a particular case whereas the cross-examination of a witness is concerned that need not be confined to the facts to which the witness has testified in his examination-in-chief. The observation of learned Additional Principal Judge, Family Court,

Panipat that proceedings under Section 13 of Hindu Marriage Act seeking divorce is a summary trial does not hold any ground. The rights of the present petitioner have been seriously prejudiced by holding that there was no need to cross-examine the witnesses examined by the petitioner.

Therefore the impugned order dated 26.10.2023 (Annexure P-4) passed by learned Additional Principal Judge, Family Court, Panipat is accordingly set aside and the Court concerned is directed to give adequate opportunity to the present petitioner/respondent for the cross-examination of the witnesses examined in the said divorce petition.

Accordingly, the present civil revision stands disposed of.

Pending application(s), if any, stands disposed of accordingly.

07.11.2023

Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No