

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

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**CRR(F)-1788-202 (O&M)
Date of decision: 18.12.2023**

Kanwarpreet Singh**...Petitioner****Versus****Harleen Kaur and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ravi Chadda, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner challenging the order dated 18.10.2023, passed by the Additional Principal Judge, Family Court, Ludhiana in maintenance petition No. MNT-125/45 of 2021, tiled as ***Harleen Kaur and others vs. Kanwarpreet Singh***, whereby the opportunity to cross-examine PW-1 by the present petitioner had been closed on account of non-appearance of counsel for the petitioner (who is respondent in the above said petition).

2. Briefly stated the facts relevant for the purpose of disposal of the present petition are that the respondents have filed the aforementioned petition seeking maintenance as against the present petitioner. On 18.10.2023, the said petition was fixed for conducting cross-examination of the respondent No. 1 as PW-1. Her examination-in-chief had already been recorded. Learned Family Court declared the opportunity of cross-examination by the present petitioner to be 'NIL' by observing that witness PW-1 was present for her cross-examination since morning but none had appeared on behalf of the petitioner to cross-examine

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her till 04:15 PM. Simultaneously, the case was fixed for producing defence evidence by the petitioner.

3. Learned counsel for the petitioner has argued that no proper effective opportunity was granted by the Family Court to the petitioner to cross-examine PW-1 and right to cross-examine her had been closed without assigning any reason and only because of the fact that his counsel could not appear on 18.10.2023. It is, therefore, argued that the impugned order be set aside and an opportunity to effect the cross-examination of PW-1 be granted to the petitioner.

4. I have heard learned counsel for the petitioner at considerable length and have also gone through the copies of zimini orders, which have been passed by the Family Court from the stage of recording examination-in-chief of PW-1. It is revealed from the same that PW-1 was examined in chief as on 27.03.2023 and her cross-examination was deferred for 20.05.2023 without giving any reason for deferring the same. Thereafter, in the orders, which have been passed from 20.05.2023 till 17.08.2023, there is no mention about the presence of PW-1 in the Court and qua postponing the cross-examination of this witness on any request made by the present petitioner. It is further revealed that on 17.08.2023, the evidence of the petitioner was ordered to be closed, except for grant of opportunity to conduct cross-examination of PW-1 and the matter was adjourned for 05.10.2023. Even on that date, PW-1 was not present. On 05.10.2023, the Family Court was on leave and then the matter was adjourned to 18.10.2023, when the impugned order had been passed. It is apparent from the same that no effective opportunity to conduct cross-examination of PW-1 had been granted to the present petitioner. As such, the impugned order is liable to be set aside.

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5. Accordingly, the impugned order dated 18.10.2023 is set aside. The Family Court is directed to grant one effective opportunity to the petitioner to cross-examine PW-1 after securing her presence in the Court.
6. However, it is clarified that the petitioner shall conclude cross-examination of above said witness on the date of her appearance before the Family Court and no further opportunity shall be granted. Petition stands disposed of accordingly.
7. Let a copy of this order be sent to the Additional Principal Judge, Family Court, Ludhiana for compliance.

18.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No