

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

2024.PHHG:075736



CR-1823-2020

Date of decision: 28.05.2024

KAMLESH KUMAR

..Petitioner

Versus

SOM NATH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

Mr. M.S. Dhami, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition filed under Article 227 of the Constitution of India, the plaintiff assails the correctness of interlocutory order passed by the trial Court on 10.01.2020, whereby, the Court has refused to secure the presence of witness Sh. Pardeep Kumar through bailable warrants.

2. The impugned order dated 10.01.2020, reads as under:-

“Ld. counsel for the plaintiff has moved an application for issuing the bailable warrants of witness Pardeep Kumar which is considered and the same is hereby dismissed as the witness already examined and summoned witness was bound down and it is the responsibility of plaintiffs to summons that witness.

One witness of plaintiff is again present but his cross examination could not be recorded as the record is absent. Defendant wants to examine both the witnesses together. In view of it, last opportunity is granted to the plaintiff to produce both the witnesses at one time so that their cross examination can be recorded, subject to the costs of Rs.1000/- which is to be paid by the plaintiff to the defendant and the file be put up for further proceedings on 14.01.2020.”

3. The learned counsel representing the petitioner contends that Sh. Pardeep Kumar was summoned as a witness. He appeared and tendered his examination-in-chief on 10.10.2019. For cross-examination, the hearing of the case was adjourned to 10.01.2020, however, Sh. Pradeep Kumar did not appear. Hence, the petitioner filed an application for securing his presence throughailable warrants, which has been dismissed by the trial Court without recording any reason.

4. Per contra, the learned counsel representing the respondent submits that it was the responsibility of the plaintiff to secure the presence of the witness.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. Once, a summoned witness has tendered his affidavit and is bound down for the next date of hearing, the Court is required to make sincere efforts to secure his presence.

7. In this case, the trial Court has erred in dismissing the application.

8. Hence, the revision petition is allowed. The impugned order dated 10.01.2020, is modified. The trial Court is requested to secure the presence of the witness.

9. All the pending miscellaneous applications, if any, are also disposed of.

May 28th, 2024

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(ANIL KSHETARPAL)
JUDGE

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