

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

122

Criminal Misc. No. M-18040 of 2024

Date of decision :-15.04.2024

Bhawana Sharma

.....Petitioner

Versus

Dinesh Sharma

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kunal Dawar, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

1. Prayer in this petition is for setting aside the order dated 06.02.2024 (Annexure P-1) passed by the learned Family Court, Gurugram in a petition filed under Section 125 Cr.P.C. bearing No.MNT-71-2019 titled as 'Bhawana Sharma vs. Dinesh', whereby the evidence, at the stage of cross-examination of the petitioner-wife has been closed by Court order.

2. Learned counsel for the petitioner *inter alia* submits that the perusal of the zimni orders shows that the petitioner has been regularly appearing in the trial Court and has led evidence. Learned counsel for the petitioner refers to the zimni orders (Annexure P-5 colly.) dated 24.02.2020 at page 44 of the paper book, as per which it is evident that the cross-examination of the petitioner, as PW1, has been partly recorded. Learned counsel states that on the date of passing of the impugned order dated 06.02.2024, whereby evidence of

the petitioner has been closed, the petitioner was called urgently to the school of her daughter as her daughter was suffering from fever and was shivering. In this respect, learned counsel refers to Annexure P-6 which is the Medical Slip of her daughter, issued by the school on 06.02.2024, as per which, daughter of the petitioner is shown to be suffering from fever and had also been given some medication. Learned counsel further refers to Annexure P-7, which is the Student Gate Pass for entering in the school, issued on 06.02.2024. Learned counsel also refers to Annexure P-8, which is an e-mail, received by the petitioner from the school thanking the petitioner for coming to school on such a short notice for pick up of her daughter Ashna, who was suffering from fever and was shivering.

3. In view of the above, learned counsel submits that the impugned order dated 06.02.2024 (Annexure P-1) be set aside and one effective opportunity may be granted to the petitioner to lead her entire evidence in the aforementioned case as grave injustice will be caused to her if she is not permitted to do so.

4. After hearing learned counsel for the petitioner, issuance of notice of motion is dispensed with at this stage, as it will only cause further delay in disposal of the case. Accordingly, in the interest of justice, as also keeping in view the above facts as canvassed by Id. Counsel for the petitioner, this petition is allowed and impugned order dated 06.02.2024 (Annexure P-1) passed by the Addl. Principal Judge, Family Court, Gurugram, is set aside. The learned Family Court concerned is directed to grant one effective opportunity to enable the petitioner herein to lead her evidence.

5. Disposed of.
6. Pending application(s), if any, stands disposed of.

April 15, 2024
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No