



122

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

CRM-M-37294-2024

Date of decision: 02.08.2024

Priyanka Narula

...Petitioner

Versus

Gaurav Raheja

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. K.B. Raheja, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 17.07.2024 (Annexure P-4) passed in complaint case No. MNT-125-33-2021 dated 22.01.2019 under Section 125 Cr.P.C. titled as 'Priyanka Narula Vs. Gaurav Raheja' vide which the application of the petitioner for producing supplementary affidavit of present petitioner by way of additional evidence, has been dismissed.

Learned counsel for the petitioner *inter alia* contends that when the petitioner was subjected to cross examination on 08.05.2023, she realized the affidavits submitted by her at her examination-in-chief, does not bear her signatures. The inadvertent mistake has occurred due to the lapse of the Clerk of the counsel as he got the affidavit attested without signatures of the petitioner. Thereafter, in the interest of justice to prove her case, she filed an application for additional evidence by producing her duly signed and attested affidavit as examination-in-chief to prove her case. However, the learned Court below has dismissed the application without even examining the fact that

**CRM-M-37294-2024****-2-**

whether such evidence is just and essential for the decision of the case and only ground on which it was dismissed is that the application for filing the additional evidence was not promptly filed and it is further observed that there is no provision for filing of supplementary affidavits.

Learned counsel for the petitioner further relies upon the judgments of this Court passed in 'Mohd. Nazar Vs. Mohd. Ilyas' CR No.312 of 2014 decided on 11.02.2016 and 'Tosiba Industries Ltd. and others Vs. State of Haryana and another' 2016 (1) R.C.R. (Criminal) 683.

In view of the facts and circumstances of the case, it transpires that the lapse has occurred due to the carelessness of the Clerk of the counsel for which the petitioner cannot be penalized. Moreover, the procedure is hand made of justice and goal of established procedure is to impart justice and technically it can be avoided by preferring to decide the case on merits by affording adequate opportunities to the parties to prove their respective claims. Denial of an opportunity to the accused to present the best available evidence or have an effective and substantial hearing, in order to prove his defence, which is in direct violation of the right to free and fair trial enshrined under Article 21 of the Constitution of India as well as the principles of natural justice.

Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, the present petition is being decided in limine, without issuing notice to the respondent, in order to save litigation cost of the respondent and judicial time of the Court and in the interest of justice, no prejudice would be caused to the respondent as he would have the opportunity to cross examine the petitioner.

In view of the above, the present petition is allowed and the

impugned order dated 17.07.2024 (Annexure P-4) is hereby set aside and the learned trial Court is directed to give two more opportunities to the petitioner subject to costs of Rs.2,000/- payable to the respondent.

(HARPREET SINGH BRAR)
JUDGE

02.08.2024
Neha

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