

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

CR-12-2025 (O&M)

Date of decision: 23.01.2025

Amardeep Singh Chadha

...Petitioner.

Versus

Parbhpreet Singh Sabharwal

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. A.P. Kaushal, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 09.05.2024 (Annexure P7), passed by learned Civil Judge (Junior Division) Ludhiana, vide which the application for permission to cross-examine witness-Amardeep Singh Chadha, through Video Conferencing, was dismissed.

2. The brief facts relevant for adjudication of the present revision petition are that the plaintiff/ petitioner filed a suit for recovery of an amount of Rs.8,10,500/- along with interest @ 18% per annum w.e.f. December, 2021 till filing of the present suit along with future interest @ 12% per annum till its realization.

3. Upon notice of the aforesaid suit, the defendant appeared and contested the suit by filing the written statement. Thereafter, issues were framed as per pleadings of the parties and case was fixed for adducing of

evidence by the plaintiff/ petitioner. Petitioner/ plaintiff tendered his affidavit in his examination-in-chief and his cross-examination is yet to be conducted.

4. Thereafter, plaintiff filed an application for seeking permission to get his statement in cross-examination recorded through video conferencing, alleging therein that applicant/ plaintiff is permanently residing in Dubai, UAE along with his family. On the last date of hearing i.e. 08.01.2024, he had come to India from Dubai, just for recording of his evidence. When defendant came to know about it then he made offer for compromise in a pre-planned manner in the Chamber of the applicant's Advocate and when they found the applicant in the Chamber, they tried to kill him by harming him and threatened him to go back to Dubai, otherwise they would implicate him in a false criminal case with the connivance of police. The applicant was rescued by the staff members of his Advocate. Then they started waiting for the applicant in the car parking and hid themselves, but applicant managed to leave safely through the other way. After getting his statement recorded in this case on the last date of hearing, the applicant had gone to Dubai. He had to return back to India at Delhi, due to sudden demise of his father. Now the applicant was again going back to Dubai on 21.01.2024 and moved an application against defendant and his family members before the concerned police authorities via E-mail, which is pending inquiry at Ludhiana. It was alleged that examination-in-chief of the applicant has been conducted in the Court on the last date of hearing and the applicant is ready to record his statement in cross-examination through video conferencing and necessary permission regarding the same be granted

to him in the interest of justice.

5. Counsel for the defendant appeared before the trial Court and suffered statement that he would cross-examine the witness in person only and prayed for dismissal of the aforesaid application.

6. After hearing learned counsel for the parties, aforesaid application was dismissed by the trial Court vide order dated 09.05.2024. Aggrieved against the said order, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

7. Learned counsel for the revision petitioner has contended that the trial Court has passed the impugned order in a hasty manner which is against law and facts available on record and it is the settled law that evidence of the witness who is living abroad can be recorded through video conferencing. Trial Court has failed to consider that the right of the respondent will not be prejudiced in any manner and documents if any can be confronted through the video conferencing. He has submitted that the trial Court has also not appreciated that respondent is extending life threats to the petitioner and request made by the petitioner to get him cross-examined through video conferencing is just and genuine and has prayed that the impugned order be set aside and the instant application be allowed.

8. I have heard learned counsel for the petitioner and have gone through the relevant record.

9. Hon'ble Supreme Court in **State of Maharashtra Vs. Dr. Praful B. Desai, AIR 2003 (4) SCC 601**, while noticing the advancement in science and technology and the fact that law was ever developing and evolving and was to be utilized for the purposes of quicker dispensation of

justice held that Video Conferencing has nothing to do with virtual reality. Advancement in science and technology have now, so to say, shrunk the world. Video conferencing is an advancement in science and technology which permits one to see, hear and talk with someone far away, with the same facility and ease as if he is present before you, both parties are in the presence of each other and the demeanour of the witness can be observed. Witness can be confronted with documents or other material or statement in the same manner as if he/ she was in Court. The Hon'ble Supreme Court also held that in cases where the evidence of a witness cannot be procured without an amount of delay, expense or inconvenience, the Court could consider issuing a commission to record the evidence by way of Video Conferencing. The judgment of Hon'ble Supreme Court in **Dr. Praful B. Desai** (supra) has been followed by various High Courts. Our High Court has also made 'Video Conferencing Rules' for conducting of the proceedings through video conferencing Volume-V, Chapter-1-H. The Delhi High Court in **International Planned Parenthood Federation (IPPF) Vs. Madhu Bala Nath, 2016(226) DLT 587**, has held as under:-

“14. Procedures have been laid down to facilitate dispensation of justice. Dispensation of justice entails speedy justice and justice rendered with least inconvenience to the parties as well as to the witnesses. If a facility is available for recording evidence through video conferencing, which avoids any delay or inconvenience to the parties as well as to the witnesses, such facilities should be resorted to. Merely because a witness is traveling and is in a position to travel does not necessary imply that the witness must be required to come to Court and depose in the physical presence of the court.

15. We are not for a moment laying down that a witness can never be called to Court. There may be circumstances or situations where physical presence of a witness may be necessary and required by the Court, in such situations it would be obligatory on the witness to be present in Court. Where a witness or a party requests that the evidence of a witness may be recorded through video conferencing, the Court should be liberal in granting such a prayer. There may be situations where a witness even though within the city may still want the evidence to be recorded through video conferencing in order to save time or avoid inconvenience, the Court should take a pragmatic view.”

10. In the present case, the fact that presently the petitioner is residing at Dubai has not been controverted by the respondent. The application has been premised on the ground that as the applicant is living abroad, so coming to India for the purpose of conducting of his cross-examination in person will cost him a lot and at the same time, it will cause inconvenience and will be time consuming. In view of above and the facts in the present case, the request of the applicant for granting him the permission to get his cross-examination conducted through video conferencing, appears to be just and reasonable and deserves to be allowed. It is not likely to cause any prejudice to the other party. I do not see any substance in this submission that it would be difficult to put documents or written material to the witness in cross-examination. It is now possible, to show to a party, with whom video conferencing is taking place, any amount of written material. So, the present petition is allowed and order dated 09.05.2024 of trial Court is set aside.

11. As the petitioner is residing abroad, so for cross-examination of

the petitioner by way of video conferencing, there would have to be a Co-ordinator both at the Court point and also at the remote point. The petitioner would not be in a position to get a Co-ordinator at the remote point appointed without a direction of the Court. So direction is issued to the trial Court to examine the witness-Amardeep Singh Chadha, by way of video conferencing as per the Rules laid down by this Court for the same. The trial Court would also give a direction in its order regarding appointment of a Coordinator at the remote point in accordance with the rules so that the petitioner is in a position to pursue his matter with the concerned Consulate/ Embassy/ High Commission. The concerned officer will ensure that once video conferencing commences, as far as possible, it is proceeded with without any adjournments.

12. Revision petition is allowed in the aforesaid terms.

13. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

23.01.2025.

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