

2025:PHHC:082476



126.

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

CRM-M-14297-2025 (O&M)

Date of decision: 09.07.2025

Ramesh Rani Gulati (deceased) through LRs and another Petitioners

Versus

Narinder Kumar Gulati and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vaibhav Sehgal, Advocate, for the petitioners.

Ms. Puja Chopra, Advocate, for the respondents.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-24904-2025

This is an application for advancing the date of hearing in the main case which is fixed for 15.10.2025.

Notice in the application.

Ms. Puja Chopra, Advocate, appears and accepts notice on behalf of non-applicant/respondents.

For the reasons mentioned in the application, same is allowed. Hearing of the main case is preponed and the same is taken on board today itself.

CRM-24977-2025

Application is allowed, as prayed for.

Photocopy of order dated 13.06.2025 as Annexure A-1 is taken on record subject to all just exceptions.

CRM-M-14297-2025 (O&M)

1. The present petition is directed against the order dated 18.09.2024 (Annexure P-8) passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby the application filed by the petitioners seeking permission to conduct cross-examination of witnesses by video conferencing, was dismissed. The Revisional Court, concurring with the findings of the Trial Court, also dismissed the revision petition, thus, giving rise to the present proceedings.

2. Learned counsel for the petitioners has assailed the concurrent findings of the Trial and Revisional Courts as being grossly erroneous and contrary to the settled principles of law governing recording of evidence through video conferencing.

3. It is submitted that both courts below have gravely erred in dismissing the application solely on the ground of “voluminous documents”, without due regard to the jurisprudential shift in favour of utilizing technology to aid judicial proceedings. It is argued that the mere existence of bulky records cannot, by itself, form a legitimate basis for denying permission to examine witnesses by video conferencing, particularly in light of multiple judicial pronouncements upholding the permissibility and efficacy of such procedure.

4. Learned counsel has further submitted that the petitioners had already led pre-charge evidence and their witnesses had been duly cross-examined by the respondents. However, subsequent to the framing of charges by the learned Trial Court on 05.07.2024 (Annexure P-4), the respondents moved an application seeking cross-examination of all witnesses afresh – described by learned counsel for the petitioners as a dilatory tactic aimed at stalling the proceedings.

5. It has also been brought to the attention of this Court that the petitioners were compelled to relocate to the United States of America following a brutal and targeted attack upon their son, necessitating steps for his safety and well-being. Due to this compulsion, their physical presence before the Trial Court has been rendered infeasible.

6. Learned counsel for the petitioners has still further submitted that the courts below failed to take cognizance of relevant and binding precedents wherein both the Hon'ble Supreme Court and this Court have upheld the practice of recording evidence by video conferencing under suitable safeguards. In support of the submissions, reliance has been placed upon ***Kulvir Ram @ Mati Versus State of Punjab and another, CRM-M-49907-2024, decided on 04.10.2024*** (Annexure P-11) and ***Chakravarthy Madasu and another Versus Cardiolab Healthcare India Pvt. Ltd (M/s), 2025(2) Law Herald (P&H) 1454***.

7. It has been categorically submitted that the petitioners are willing to disclose their precise location at all times and will abide by any

safeguards or directions issued by the court to ensure the integrity of the judicial process.

8. On being put to notice, Ms. Puja Chopra, Advocate, who has appeared on behalf of the respondents, has vehemently opposed the maintainability of the petition and has questioned its validity. It has been submitted by the learned counsel that the instant petition is unsupported by any apostilled affidavit, thereby lacking legal sanctity.

9. While drawing the attention of this Court to the reply filed on behalf of respondents Annexure R-1/C, it is contended that the petitioners are facing criminal prosecution in FIR No.309, dated 26.12.2022, under Sections 420, 120-B IPC, Police Station Division No.8, Police Commissionerate, Ludhiana, and have wilfully absconded from the jurisdiction of the court, having moved to the United States without disclosing their present location or the date of return. This non-disclosure, according to the learned counsel, undermines the credibility of the case of the petitioners and highlights their mala fides in seeking to delay the proceedings.

10. Learned counsel has further relied upon Annexure R-5 to argue that the conduct of the petitioners is evasive, and the impugned order, having been passed after due consideration of facts and law, warrants no interference by this Court.

11. I have heard learned counsel for the parties and perused the material placed on record.

12. At the very outset, this Court finds it appropriate to reiterate that the legal system must evolve in tandem with technological advancements. The core objective behind the integration of technology into judicial processes is to ensure greater accessibility, convenience, and efficiency in the administration of justice. The use of video conferencing for recording of evidence is no longer an exception but a recognized and judicially endorsed norm. The Hon'ble Supreme Court in ***Manju Devi Versus State of Rajasthan and another, 2019(6) SCC 203***, has emphasized the permissibility and adequacy of recording evidence by video conferencing. The Hon'ble Apex Court, while critiquing the Lower Courts for overlooking vital submissions, referred with approval to ***State of Maharashtra Versus Dr. Praful B. Desai and another, 2003(4) SCC 601*** wherein it was held in paragraph 19 as under:-

“Recording of evidence by video conferencing also satisfies the object of providing, in Section 273, that evidence be recorded in the presence of the Accused. The Accused and his pleader can see the witness as clearly as if the witness was actually sitting before them. In fact the Accused may be able to see the witness better than he may have been able to if he was sitting in the dock in a crowded Court room. They can observe his or her demeanour. In fact the facility to play back would enable better observation of demeanour. They can hear and rehear the deposition of the witness. The Accused would be able to instruct his pleader immediately and thus cross-examination of the witness is as effective, if not better. The facility of play back would give an added advantage whilst

cross-examining the witness. The witness can be confronted with documents or other material or statement in the same manner as if he/she was in Court. All these objects would be fully met when evidence is recorded by video conferencing. Thus no prejudice, of whatsoever nature, is caused to the Accused. Of course, as set out hereinafter, evidence by video conferencing has to be on some conditions.”

13. Further, the Hon’ble Supreme Court underscored that in cases where summoning the attendance of a witness involves unreasonable delay, expense, or inconvenience, the court is empowered under Sections 284 and 285 of Cr.P.C. to dispense with physical attendance and record evidence through Commission. In modern times, such Commission can effectively be executed through video conferencing.

14. The Trial Court, while passing the impugned order dated 18.09.2024, appears to have disregarded these well established principles and confined itself to the issue of bulky documents, without exploring feasible mechanisms to manage the same through digital sharing, screen sharing, document transmission, or court appointed coordinators.

15. The Revisional Court also fell into error by affirming the Trial Court’s decision without addressing the legal permissibility or exploring practical safeguards that could have balanced the concerns of both the parties.

16. While the respondents have alleged mala fide intent on the part of the petitioners, based on the pending criminal case and absence of an

apostilled affidavit, this Court is of the view that such concerns, though relevant for consideration, cannot be used to frustrate a legitimate procedural request that falls squarely within the bounds of settled law.

17. The apprehensions expressed by the respondents regarding the location of the petitioners and participation can be effectively addressed by directing the petitioners to disclose their precise location in the USA, undertake to appear virtually on all specified dates, and comply with any technical or procedural requirements imposed by the Trial Court.

18. In the light of the above discussion, the impugned order dated 18.09.2024 is hereby set aside. The matter is remanded back to the Trial Court for fresh consideration, with the following directions:-

- (i) The petitioners shall disclose their current location and ensure their availability for virtual cross-examination;
- (ii) The Trial Court shall make appropriate logistical arrangements to facilitate cross-examination by video conferencing, including mechanisms to manage voluminous documents through screen sharing, scanning, or e-transmission;
- (iii) The petitioners shall file an undertaking to comply with all procedural directions issued by the Trial Court;
- (iv) The Trial Court shall impose any further conditions deemed necessary to preserve the integrity of the proceedings.

19. The matter is remanded back and thereafter, it is directed that the matter shall proceed expeditiously in accordance with law.
20. Disposed of accordingly.
21. Pending application, if any, shall also stand disposed of.

(MANJARI NEHRU KAUL)
JUDGE

July 09, 2025
sanjeev

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