

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CR-3183-2024 (O&M)****Date of Decision : 13.08.2025**

Kuldeep Malik

....Petitioner

VERSUS

Saroj Devi and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanchit Punia, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 29.04.2024 (Annexure P-6) whereby the application filed by the defendant-petitioner for cross-examination of the witness PW3 Rubina has been dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-respondent had filed an application for summoning the concerned Clerk/Record Keeper, District Registration Firm and Society Hisar with the record in the matter of Baba Shyamban Education Society Umra. The said witness appeared as PW3 and produced the summoned record. An application was filed by the defendant-petitioner herein for a direction to the said witness PW3 Rubina to produce the record as detailed in the application (Annexure P-5) for her cross-examination under Section 135 of the Evidence Act, 1872 now Section 140 of the Bharatiya Sakshya Adhiniyam, 2023. The said application was dismissed vide the impugned order dated 29.04.2024. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that the said witness i.e. PW3 Rubina did not bring certain documents which were relevant and they were purposely not produced by her and her cross-examination was necessary and that it was incumbent upon her to produce the documents so that she could be cross-examined.

4. Heard.

5. Section 140 of the Bharatiya Sakshya Adhiniyam, 2023 reads as under :

140. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, by the discretion of the Court.

6. The procedure in the above reproduced Section clearly reveals that the order in which the witnesses are produced and examined has to be regulated by law and practice for the time being relating to civil and criminal procedure and only in the absence of such procedure, by the discretion of the Court. Learned counsel for the defendant-petitioner has not been able to convince this Court as to how the said application was at the first instance even maintainable under Section 140 of the Bharatiya Sakshya Adhiniyam, 2023. Further still, the said witness PW3 was summoned to produce a record. Section 144 of the Bharatiya Sakshya Adhiniyam, 2023 clearly states that once a witness is summoned to produce a document does not become a witness by the mere fact that he/she produces the document and cannot be cross-

examined unless and until he is called as a witness. Learned counsel for the defendant-petitioner has not been able to convince this Court that the said witness appeared as a witness and was not a summoned witness to produce the documents. Further still, no witness can be compelled to produce the documents. PW3 appeared as a witness of the plaintiff-respondent. If the defendant-petitioner so desires and wishes to rely on certain documents, he is always at liberty to produce the said documents while leading his own evidence. In view thereof, no fault can be found with the impugned order dated 29.04.2024.

7. In view of the above, the present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

13.08.2025

jk

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO