

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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2026:PHHC:084305



CRM-M-30741-2026 (O&M).
Date of decision: 27.05.2026.

M/S CHANDIGARH SHOE COMPANY AND ANOTHER

...Petitioner(s)

VERSUS

RELIGARE FINVEST LIMITED

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. Arpit Chawla, Advocate,
for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for seeking quashing of the impugned order dated 17.12.2025 vide which the cross-examination of the complainant has been treated as NIL, in criminal complaint bearing No.NACT/3021 of 2020 titled 'Religare Finvest Limited vs. M/s Chandigarh Shoe Co. and anr.' pending before the Judicial Magistrate First Class, Chandigarh.

The impugned order dated 17.12.2025 reads thus: -

“Present: Sh.Mohit Sareen, counsel for complainant.

None for accused.

Today, case was fixed for cross-examination of CW-1 and payment of previous cost of Rs. 3000/- to be paid to the complainant.

Complainant witness is present since morning to face his cross-examination. However, despite calling the case several times since morning, none has appeared on behalf of accused. In the interest of Justice, complainant was asked to request his counsel to speak with the defence counsel and enquire about his cross-examination. On enquiry witness submitted before this Court that the defence counsel has intimated that he will come after lunch for his cross-examination. Accordingly, file be put up after lunch.

Date of Order: 17.12.2025

*(Divya Sharma)
Judicial Magistrate Ist Class,
Chandigarh
UID No. PB00539*

Present: Sh. Mohit Sareen, counsel for complainant.

Sh. Jastaran Chhatwal, counsel for accused (heard through VC)

Accused absent.

File taken up again at 02:00 PM. Complainant witness is present to face cross-examination, however, defence counsel has not come forthwith for cross-examining the witness. Reader was directed to communicate telephonically with the defence counsel. Reader orally intimated that the defence counsel has submitted that he is presently in Panchkula District Court, hence, will not be able to come.

Keeping in view strict directions passed with respect to cross-examination of complainant, this Court communicated with the defence counsel through video call.

Learned counsel submitted that he has been trying to contact the accused, however, there is no response from him. Hence in the absence of instructions from the accused, he will not be able to cross examine the complainant.

Perusal of file shows that the present case is fixed for cross-examination of complainant since 16.03.2022. CW-1 Shiv Kant Tyagi tendered his affidavit in evidence post substitution on 20.05.2025 and since then defence has been seeking repetitive adjournments for cross-examinations on one ground or the other, in pursuance to which cost of Rs. 1000/- was imposed upon accused by my Learned Predecessor vide order dated 04.07.2025. Despite specific directions and imposition of cost no compliance was made and vide order dated 19.11.2025 additional cost of Rs. 2000/- was imposed upon accused payable to complainant. It was specifically made clear that 17.12.2025 would be the last opportunity to cross-examination of complainant. Despite specific directions and presence of witness since morning, cross-examination has not been conducted. During the course of video call, it was made clear to the defence counsel that in case cross-examination of witness will not be conducted today then the cross-examination of witness shall be treated as NIL being opportunity given to which learned defence counsel raised no objection. In light of aforementioned circumstances especially his absence from Court today and previous exemption applications moved and keeping in view the antecedents conduct of accused, the cross-examination of complainant is treated as NIL being opportunity given.

Now case is fixed for 07.01.2026 for recording statement of accused under Section 313 of CR.P.C and for awaiting appearance of accused.

Date of Order: 17.12.2025

*(Divya Sharma)
Judicial Magistrate Ist Class,
Chandigarh.
UID No. PB00539”*

Mr. Ujwal Anand, Advocate, enters appearance and files power of attorney on behalf of the respondent.

It is evident from a perusal of the impugned order that seemingly the petitioner himself was not interested in conducting and completing the cross-examination of the complainant. The Court has undisputedly extended and exhausted all indulgence that could have been extended to the petitioner. So much so, the Court specifically called the counsel for the petitioner and appraised him of the obligation and duty cast upon the counsel to conduct and conclude the cross-examination, however, scant regard was given to the same by the counsel representing the petitioner herein before the trial Court. Imposition of costs as well as the last opportunities and even the request by the Court itself has not acted as a deterrent or convince the petitioner herein or his counsel to conduct and conclude the cross-examination of the witness who had to repeatedly appear for his cross-examination again and again.

This Court does not find any fault in the order that has been so passed by the Judicial Magistrate First Class, Chandigarh, directing to treat the cross-examination as ‘Nil’, vide the order dated 17.12.2025.

Learned counsel for the petitioner, however, contends that he may be granted one last opportunity to cross-examine the complainant so as to put forth his defence and that the equities may be balanced by suitably compensating the complainant and imposing an appropriate cost for the inconvenience.

Learned counsel appearing on behalf of the respondent-complainant though expressed his resistance, however, he fairly submits that in the event the respondent is equitably compensated, he would appear for yet, another time for his cross-examination.

Accordingly, purely in the interest of justice and to enlarge a concession, the petitioner is granted one effective opportunity to cross-examine the complainant and to conclude the same. However, the same shall be subject to payment of costs of Rs.50,000/- payable by the petitioner of which Rs.25,000/- be paid to the respondent-complainant and the balance to DLSA, Chandigarh. A higher cost has been imposed noticing the aforesaid following factors:-

- (i) The complaint pertains to the year 2020 and already a period of six years has elapsed.
- (ii) The Court has put in huge efforts to get the cross-examination concluded and even requested through a video call, a request which was declined.
- (iii) The cheque is of a value of nearly Rs.12.5 lakh and its delayed adjudication is onerous on the complainant.

It is further ordered that on the deposit of the aforesaid cost, the trial Court shall fix a date for cross-examination of the complainant-respondent and thereafter proceed in accordance with law. In the event the cost is not deposited or the cross-examination is not undertaken by the petitioner on the date so fixed by the trial Court, no further opportunity shall be granted. The

costs of Rs.25,000/- be released to the complainant on appearance before the trial Court for cross-examination.

The petition stands disposed of in above terms.

May 27, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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