

(113) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5125-2025

Date of Decision: 25.02.2026

MAHENDER

...Petitioner

Vs.

VED PARKASH

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. S.S.Momi, Advocate for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present Civil Revision Petition has been filed under Article 227 of the Constitution of India seeking to set aside the impugned order dated 26.05.2025 (Annexure P-1), passed by the learned Additional Civil Judge (Senior Division), Kaithal, whereby the application filed by the petitioner/defendant for permission to further cross-examine PW-4, Angrej, has been dismissed.

2. Briefly stated, the respondent/plaintiff instituted a suit for recovery on the basis of a pronote alleged to have been executed on 28.04.2015. The petitioner/defendant contested the suit, specifically denying the execution of any pronote and alleging that the same is a fabricated document prepared in connivance with the family members of the plaintiff. After framing of issues, the plaintiff examined himself as PW-1 and thereafter examined PW-4, Angrej Kumar, the alleged scribe of the pronote. PW-4 was duly cross-examined by learned counsel for the petitioner/defendant. In his cross-examination, he admitted that he has been working as a commission agent since 1992, owns Shop No. 65 in the Kaithal grain market, that the plaintiff and his family members are his clients, and that he operates a

registered partnership firm. While the case was still pending for the remaining evidence of the plaintiff, the petitioner/defendant moved an application seeking permission to further cross-examine PW-4 on the ground that certain material questions regarding the particulars of the registration certificate of his partnership firm, its name and style, place of business, and details relating to sales tax and income tax returns could not be put to the witness during the earlier cross-examination. Upon notice, the said application was dismissed by the learned Trial Court vide the impugned order dated 26.05.2025. Aggrieved by the dismissal of the application, the petitioner has filed the present revision petition challenging the legality and propriety of the impugned order.

3. Learned counsel for the petitioner contended that the impugned order suffers from legal infirmity and does not meet the standards of judicial propriety, being arbitrary, perverse, and unsustainable in law. He submitted that the learned Civil Judge failed to appreciate that the application for further cross-examination was not filed with an intention to delay the proceedings, but rather to elicit material documentary evidence pertaining to the registration status, financial affairs, and business dealings of the partnership firm of PW-4. It was further contended that the learned Trial Court committed a material irregularity in the exercise of its jurisdiction by holding that the defendant had already been granted sufficient opportunities, without considering that the earlier cross-examination was limited in scope and did not cover all necessary and relevant aspects. According to the petitioner, the learned Trial Court failed to apply the test of relevance and necessity while adjudicating the application. Learned counsel also argued that the Trial Court erred in concluding that no plausible explanation had been furnished by the petitioner, whereas the

application specifically explained that the relevant documentary material could not be immediately produced or relied upon at the time of the earlier cross-examination. He emphasized that procedural rules are handmaidens of justice, and the learned Civil Judge ought to have granted an opportunity to the petitioner to further cross-examine the witness in the interest of a fair trial.

4. I have learned counsel for the petitioner, and have perused the paper-book carefully.

5. The learned Civil Judge has recorded his findings in paragraph No. 5 of the impugned order, which read as under:

“After considering the rival submissions and case file, this Court is of the considered opinion that the application in hand deserves to be dismissed. By dint of present application the defendant wants to cross-examine PW4 Angrej further. Perusal of file shows that PW4 Angrej Kumar was partly cross-examined on dated 19.02.2025 and his further cross-examination was deferred due to lunch break. His further cross-examination was got completed after lunch break on the very date ie. 19.02.2025. In this way, the sufficient time was available with learned counsel for defendant. The relevant questions as mentioned in the aforesaid application have already been put to PW4 Angrej, which were duly replied by him/PW4/Angrej. Witness has already been cross-examined at length. The documents whatsoever mentioned in the application in its prayer clause had already come in the knowledge of defendant on 19.02.2025, when PW4 was examined before the Court. However, despite that he opened his eyes to file the application in hand on dated 09.04.2025, which shows his intention to delay the proceedings in the present matter and no plausible explanation has been given by the defendant in the application to cross-examine PW4 further. If such like applications on such

grounds are allowed, proceedings will never conclude. Application patently is moved just in order to delay the conclusion of the case.”

6. In the impugned order, the learned Civil Judge has rightly concluded that the relevant questions, as mentioned in the application, had already been put to PW-4 and were duly answered by him during his cross-examination. The witness had been cross-examined at length, and sufficient opportunity had been granted to the defendant at that stage. It has further been observed that the documents sought to be relied upon were already within the knowledge of the defendant at the time when PW-4 was cross-examined. However, the present application was filed after a delay of about two months, which lends support to the conclusion that the same was moved only with a view to delay the proceedings. In paragraph No. 4 of the application, it has been pleaded that during the cross-examination of PW-4, learned counsel could not place on record the particulars of the Registration Certificate of the firm of PW-4, including its name, style, place of business, and sales tax/income tax registration certificates along with returns, in order to question the creditworthiness and borrowing capacity of PW-1 and the firm of PW-4, as reflected in their assets and liabilities. On this basis, it was asserted that further cross-examination of PW-4 was necessary for proper adjudication of the controversy involved in the suit. However, as rightly held by the learned Civil Judge, the grounds so mentioned do not justify recalling the witness for further cross-examination, particularly when adequate opportunity had already been granted and availed.

7. In paragraph No. 5 of the application for further cross-examination of PW-4, it has been pleaded that the omission on the part of the

counsel to put certain questions during the cross-examination of PW-4 was not intentional. However, a perusal of the record reveals that PW-4 was subjected to detailed and elaborate cross-examination by the petitioner. The witness was examined at length on all material aspects, including his professional background and his association with the plaintiff.

8. It is well-settled that witnesses play a crucial role in judicial proceedings and ought not to be unnecessarily inconvenienced by being summoned repeatedly without sufficient cause. A witness cannot be recalled merely to fill up lacunae in the case or to enable a party to improve upon its earlier cross-examination. In the present case, the matters which the petitioner now seeks to put to PW-4 were admittedly within his knowledge at the time of the original cross-examination. Despite this, no such questions were put when adequate opportunity was available. The application for further cross-examination was filed after a lapse of two months from the date of examination of PW-4, and the present revision petition has been filed after a further delay of two months, which supports the inference that the attempt is not *bona fide*.

9. Considering the totality of the facts and circumstances, and the observations recorded by the learned Civil Judge that the relevant documents were already within the knowledge of the defendant and that essential questions had already been put during cross-examination, this Court is of the considered opinion that recalling the witness at this stage would cause unnecessary inconvenience and would amount to permitting the petitioner to fill up omissions.



10. With the observations made above, the present petition stands dismissed.

(VIRINDER AGGARWAL)
JUDGE

26.02.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No