

Punjab and Haryana High Court

Before: Justice Raj Mohan Singh.

M/S MAPLE LOGISTICS PVT LTD v. M/S RIBA TEXTILE PVT LTD & ANRS

CR 2227/2017

July 24, 2017

CPC O. 18 R. 17 - Order 18 Rule 17 CPC can only be invoked when the Court is satisfied that the further cross-examination of the witness is necessary for helping the Court to arrive at a just conclusion. The purpose of Order 18 Rule 17 CPC is very limited for which discretion of the Court has to be exercised in a very judicious manner.

Raj Mohan Singh, J. -

[1]. Petitioner has assailed order dated 04.03.2017 passed by Addl. Civil Judge (Sr. Divn.) Gohana vide which prayer made for recall of witness No.3 ASI Krishan for further cross-examination was rejected.

[2]. On 12.07.2017, none appeared on behalf of the petitioner even after three pass overs. Today also, none has come present to address arguments on behalf of the petitioner.

[3]. ASI Krishan is sought to be recalled for further cross- examination at the instance of the petitioner/defendant No.1. ASI Krishan has already been examined completely. His further cross-examination is sought on the ground that he being an Investigating Officer of the FIR is required to answer some questions which were not asked at the relevant time. Provision in terms of Order 18 Rule 17 CPC is sought to be invoked for recalling of the witness.

[4]. Both the parties were granted sufficient opportunities to lead evidence. After availing the opportunities, they have led their respective evidence. It appears that the Investigating Officer of the case is again sought to be examined in order to extract something which can be used in a criminal trial. Order 18 Rule 17 CPC can only be invoked when the Court is satisfied that the further cross-examination of the witness is necessary for helping the Court to arrive at a just conclusion. The purpose of Order 18 Rule 17 CPC is very limited for which discretion of the Court has to be exercised in a very judicious manner.

[5]. In **Surinder Kaur v. Karanbir Singh**, (2004-3)138 PLR 41, it was highlighted that the provision in terms of Order 18 Rule 17 is merely an enabling provision for the convenience of the Court and the same cannot be utilized by the parties to re-examine any witness in order to fill lacuna in the case. This power has to be exercised very sparingly that too in an exceptional case. Though the Court, may at any stage of the suit recall any witness, who has been examined, but the said provision does not permit any party to seek re-examination of the witness as a matter of right. The language of Order 18 Rule 17 CPC is

limited to the extent of convenience of the Court, where the Court requires such evidence to be led by the parties. The assistance of the Court for the exercise of its inherent power cannot be utilized to fill lacuna in the evidence.

[6]. The Hon'ble Apex Court in **Ram Rati v. Mange Ram (D) through LRs** and others, [2016 PLRonline 0004](#), has embarked upon the controversy and ruled that recalling of the witness for further elaboration on the left out issues is wholly impermissible in law. The purpose of Order 18 Rule 17 CPC is very limited and is discretionary in nature. This provision can only be invoked by the Court for its convenience and not on the asking of any party.

[7]. In view of above, I do not find any merit in the present revision petition and the same is accordingly dismissed.