ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

CRL.REVISION NO: 61/2013

MUHAMMAD SAGHEER VS ASJ, ISLAMABAD ETC

Serial No. of order of proceeding.	Date or order of proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
1	2	3

27.1.2014 Raja Rizwan Abbasi, Advocate for petitioner,
Mir.Farooq Advocate for respondent No.2,
Mr.Ghufran Khurshid Imtiazi Advocate for respondent No.3.
Mr.Sanaullah Zahid, learned Deputy Attorney-General.

Learned counsel submits that examination-in-chief of Pw.1 was recorded on 28.3.2013 and on his appearance, cross-examination was delayed due to indolence on the part of respondents/accused and when said P.W appeared for cross-examination on 19.12.2013, he was subjected to a question whereby he was required to restate examination-in-chief. Thereupon, petitionerôs side raised objection which was overruled, hence this petition.

Learned counsel for petitioner submits that by way of the impugned question, one fact was required to be re-testified which is not permissible under Article 132, 133, and 141 of Qanoon-e-Shahadat Order, 1984.

It is next submitted that no plausible reason was advanced for asking the question or for overruling the objection vide impugned order.

On the other hand, learned counsel for respondent No.3 vehemently opposed the petition by maintaining that the gauge provided under Qanoon-e-Shahadat to limit the scope of cross-examination is relevancy of the same to the matter in dispute.

It is next submitted that the question asked was not beyond the facts in controversy, therefore, same was permissible under the law.

Learned counsel for respondent No.2 also adopted the above arguments by adding that the question is permissible under Chapter X of Qanoon-e-Shahadat Order, 1984.

Learned Deputy Attorney-General however, supported the petition by adopting arguments of petitioner and added that the question is not in accordance with norms of cross-examination.

Heard & record perused.

Cross-examination is limited only by Article 138 and 141 of Qanoon-e-Shahadat, Order, 1984, however, the manner in which the questions are put is to be viva voce, whereas the impugned question was compound whereby a witness was required to testify his previous statement made in examination-in-chief without even asking as to whether he denies the same.

It is not necessary that there must be a reason behind asking a question and the questions which are intended to complicate and prolong the course of evidence are required to be discouraged.

In view of above, impugned order is set aside and defence is directed to re-put the question in viva voce format, if imputation of examination-in-chief is required.

Petition stands allowed in above terms.

(CHIEF JUSTICE)

Saeed Akhtar
27.1.2014