

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-1163 of 2015
Date of decision : 26.02.2015

Manoj Kumar

...Petitioner

V/S

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S. P. Chahar, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana
assisted by ASI Vedprakash.

Mr. Mani Ram Verma, Advocate
Mr. Nipun Verma, Advocate
for the respondent No.2

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of impugned orders dated 01.03.2014 (Annexure P-3) and 06.06.2014 (Annexure P-5) and all consequential proceedings arising therefrom.

The learned counsel for the petitioner contends that the cross examination of the prosecution witnesses namely Rekha Soni and Madan Lal, is necessary for just decision of the case. The counsel for the petitioner could not cause representation as he was out of station on 01.03.2014 and the proxy counsel namely Sh. Sanjiv Gupta, Advocate appeared before the

trial court to seek adjournment but the same was rejected by learned JMIC, Bhiwani without giving any opportunity to cross-examine the witnesses. The absence of counsel for the petitioner/accused before the trial Court was neither intentional nor willful.

On the other hand, the learned State counsel has filed reply in the Court, which is taken on record and states that once the examination of the witness has been concluded, he could not be re-called merely for non-appearance of counsel for the petitioner/accused.

Heard.

The absence of counsel for the petitioner appears to be not mala fide as he had filed the application to cross examine the above witnesses on 13.05.2014, when the trial Court treated their cross examination as Nil due to non-representation. No prejudice is going to be caused to the prosecution in case the cross examination of the PW-1 and PW-2 is allowed. It would be in the interest of justice to recall the witnesses for their cross examination.

Accordingly, the present petition is allowed. The impugned orders dated 01.03.2014 (Annexure P-3) and 06.06.2014 (Annexure P-5) are hereby set aside and one opportunity is granted to the petitioner to cross examine the above said witnesses, on the date fixed by the trial Court, subject to the cost of Rs.15,000/- to be deposited with District Legal Services Authority.

26.02.2015

ashok

(JITENDRA CHAUHAN)
JUDGE