

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

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Crl. Misc. No. M 1496 of 2015

Date of decision: 23.01.2015

Amandeep Singh

..... Petitioner

Versus

State of Punjab and another

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Sunil K Nehar Advocate
for the petitioner

Mr. Gazi Mohammad, DAG, Punjab
for the respondent State

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition under Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C') has been preferred to assail the order dated 20.11.2012 (Annexure P1) passed by the Additional Sessions Judge, Ludhiana whereby cross examination of HC Parminder Singh has been treated as 'Nil'.

Counsel for the petitioner contends that HC Parminder Singh was examined-in-chief on 20.11.2012 and due to failure of defence counsel to appear in the Court, his cross examination has been treated as 'Nil'. A

serious prejudice would be caused to the petitioner, in case he is not allowed to cross examine the aforesaid witness examined by the prosecution to prove the alleged recovery of contraband from the petitioner constituting offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

Counsel for the respondent State of Punjab would submit that the prosecution has filed an application under Section 311 Cr.P.C. which is pending consideration of the Court. It is further submitted that as the accused failed to ensure presence of his counsel on 20.11.2012 to cross examine the witness, no fault can be found in the impugned order.

I have heard counsel for the petitioner and perused the records.

The cross examination of HC Parminder Singh was treated as 'Nil' in November 2012, but the present petition has been filed more than two years thereafter. It appears that neither the petitioner nor his counsel bothered to seek appropriate remedy at an appropriate stage. Nevertheless, keeping in view the fact that a serious prejudice is likely to be caused to the right of the accused, in case he is not permitted to cross examine HC Parminder Singh, coupled with the fact that the prosecution has also filed an application under Section 311 Cr.P.C. for additional evidence, the petition is allowed and the petitioner is provided one opportunity to cross examine HC Parminder Singh subject to payment of Rs.2,000/- as costs, to be deposited with the Legal Services Authority, Ludhiana.

(Rekha Mittal)
Judge

23.01.2015
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