

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-35165-2015
Date of decision:16.11.2015**

Gurdeep Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Vikrampreet Arora, Advocate for the petitioners.
Mr. Daljeet Singh Virk, AAG, Punjab.
Mr.Simranjeet Singh Sarwara, Advocate for respondent No.2.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioners, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seek quashing of impugned order dated 8.6.2015 passed by the learned trial Court, whereby prosecution evidence was closed and the same was upheld by the revisional court as well vide order dated 12.8.2015.

Notice of motion was issued.

Learned counsel for the petitioners submits that the investigating officer could not be examined, because of bona fide reasons. He further submits that investigating officer, who was one of the material witnesses, was necessary to be examined for the just decision of the case. He would next contend that given only one more opportunity, petitioners shall ensure that left over prosecution witness, i.e. investigating officer is examined on the next date of hearing. He also submits that respondent No.2

may be compensated by imposing reasonable costs on the petitioners. He prays for allowing the present petition.

Learned counsel for the State also supports the contentions raised by the learned counsel for the petitioners, contending that investigating officer could not appear before the learned trial Court, because of bona fide reasons as he had been summoned on that very date by another court of competent jurisdiction. However, learned counsel for respondent No.2 submits that since prosecution has already availed numerous opportunities, they were not entitled for any further indulgence, at the hands of this Court. He prays for dismissal of the instant petition.

Having heard the learned counsel for the parties at considerable length and after careful perusal of the record of the case, this Court is of the considered opinion that since on the date when impugned order was passed, investigating officer has been bound down by another court of competent jurisdiction for his appearance, prosecution deserves another but one last and final opportunity to examine the only left over prosecution witness, i.e. investigating officer. Learned counsel for the petitioners has also been found justified in contending that respondent No.2 can be compensated with reasonable costs.

No other argument was raised.

In view of what has been discussed hereinabove, the present petition deserves to be accepted.

Accordingly, the impugned order dated 8.6.2015 passed by the learned trial Court as well as the revisional order dated 12.8.2015 passed by the learned Additional Sessions Judge, Patiala, are hereby set aside.

Another but last and final opportunity is granted to the prosecution to

conclude its evidence by ensuring the presence and examination of the only left over prosecution witness, i.e. investigating officer, however, subject to payment of Rs.5,000/- as costs to be paid by the petitioners to respondent No.2 before the learned trial Court on the next date of hearing. Learned trial Court is directed to give one more effective opportunity to the prosecution to produce the remaining prosecution witness, i.e. investigating officer.

Resultantly, with the above-said observations made and directions issued, the instant petition stands allowed and disposed of, accordingly.

16.11.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE