

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-6686 of 2015

Date of Decision: February 27, 2015

Varinder Kumar

.....Petitioner

Vs.

M/s Jaswalsons Financial Corporation

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

The trial Court vide order dated December 19, 2013 had exempted the personal appearance of the petitioner by allowing the application though the cross-examination of complainant CW 1 Sarabjit Singh was treated as nil and the complainant's evidence was also closed by order. Aggrieved by the impugned order denying an opportunity to cross-examine the complainant, the present petition has been filed.

I have gone through the impugned order dated December 19, 2013. As per the provisions of Section 273 Cr.P.C., a Court has got jurisdiction to exempt the personal appearance of an accused but at the same

time the cross-examination can be conducted by his counsel. The provisions of Section 309 Cr.P.C. enables a Court to impose cost of adjournment as per explanation 2 appended to said provision. It appears that the trial Court could have imposed cost of adjournment or could have permitted the cross-examination by counsel for the petitioner after exempting his personal appearance. The order dated December 19, 2013 appears to be improper if seen in context to the above said provision.

In the interest of justice and to save the complainant-respondent from unnecessary expenses and time, I propose to dispose of this petition in limine by giving an opportunity to the petitioner to cross-examine the complainant subject to payment of cost.

Petition is allowed. Impugned order annexure P-3 dated December 19, 2013 is hereby set aside, so far as it denies an opportunity of cross-examination to the petitioner of CW1. It is ordered that trial Court shall fix a date for cross-examination of CW1 subject to petitioner paying a cost of Rs.10000/- to the complainant on March 3, 2015. Said cost will be considered as cost of adjournment as per provisions of Section 309 Cr.P.C.

Since the petition has been disposed of in limine, it will be open to the complainant to approach this Court for recalling of the order in case the complainant is not satisfied with the order.

February 27, 2015
sanjay

(M.M.S.BEDI)
JUDGE