

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

**CRR No. 4183 of 2015 (O&M)
Date of Decision: 31.10.2015**

Gurdeep Singh

--Petitioner.

Vs.

State of Punjab

--Respondent.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Vishal Rattan, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the order dated 30.9.2015 passed by the learned Additional Sessions Judge, whereby cross examination of two prosecution witnesses was recorded as 'Nil', after affording full opportunity to the petitioner, he has approached this Court by way of present criminal revision petition, for setting aside the impugned order.

Learned counsel for the petitioner submits that since the copy of police report under Section 173 (2) of the Code of Criminal Procedure ('Cr.P.C.' for short) was with the petitioner and not with his counsel before the learned trial court, two prosecution witnesses could not be cross examined. He further submits that since the petitioner engaged his counsel only on 30.9.2015, the counsel could

not cross-examine two PWs in the absence of relevant record, particularly the police report under Section 173 (2) Cr.P.C. This was the reason that learned counsel for the petitioner before the learned trial court sought an adjournment for cross examining two PWs whose examination-in-chief was recorded on 30.9.2015. He prays for allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the arguments advanced, this Court is of the considered opinion that in the given fact situation of the present case, instant one has not been found a fit case warranting interference at the hands of this Court, while exercising its revisional jurisdiction, which itself is a limited one. To say so, reasons are more than one, which are being recorded hereinafter.

A bare perusal of the impugned order would show petitioner was well aware, that case was listed for prosecution evidence on 30.9.2015. Charges were framed against the petitioner on 10.9.2015 and in his presence, case was fixed for prosecution evidence for 30.9.2015. Further, when both the witnesses were put to cross examination, learned counsel for the petitioner before the learned trial court expressed his inability to cross examine both the PWs, saying that he was engaged only to argue the bail application and he was not prepared to conduct cross examination.

It is also pertinent to note here that learned trial court had to decline the request for adjournment because the witnesses, whose examination-in-chief was to be recorded, stated before the court that

they were being pressurised by the petitioner. Having said that, this Court feels no hesitation to conclude that learned trial court considered, examined and appreciated each and every relevant aspect of the matter, before arriving at a judicious conclusion and the impugned order deserves to be upheld.

The relevant part of the impugned order, at page 22 of the paper book, reads as under:-

“Shri Vishal Rattan Advocate filed wakalatnama on behalf of accused. Statements of two witnesses recorded. Learned defence counsel depicted his inability to cross examine the witnesses primarily on the ground that he was engaged to argue only the bail application. He further submitted that he was also not supplied the copies of documents, but perusal of the record reveals that during commitment proceedings, copies of documents being relied upon by the prosecution, were disbursed to the accused on 18.8.2015. At that time also, accused was being represented by an Advocate (Shri Amit Sharma Adv.). Further perusal of the file reveals that on the last date of hearing when charges were framed, Shri Vishal Rattan Advocate was present. If learned counsel was not in possession of copies of documents, he could have asked the court to supply documents.

Any how, learned counsel was offered the judicial file to make it convenient for him to put the witnesses to cross examination. He was also told that as per his convenience, cross examination may be recorded in the post lunch session, so that in the mean time, he may prepare himself to conduct cross examination, but the learned counsel did not accept any offer.

Consequently, cross examination of both prosecutrix and PW Sarabjit Kaur is taken as Nil after affording full opportunity of cross examination, especially when both the abovesaid witnesses disclosed that they were being pressurized by the accused to resile.”

Later part of the abovesaid impugned order would show that the learned trial court has tried its level best, to make the learned counsel for the petitioner convenient, to cross examine the two PWs, before passing the impugned order. In fact, even the judicial file was offered to the learned counsel to make him convenient to put the witnesses to cross examination. He was also told that as per his convenience, cross examination may be recorded in the post lunch session, so that he may prepare himself to conduct the cross examination, however, he did not accept even the said offer.

In the abovesaid unwarranted situation created at the instance of the petitioner, learned trial court was left with no other option except to proceed further for recording cross examination of

the two PWs as 'NIL', after affording full opportunity and particularly when the witnesses deposed before the court that they were being pressurised by the petitioner to resile from their statements. Under these circumstances, it can be safely concluded that on the one hand, petitioner himself was trying his level best to pressurise the material witnesses and on the other hand, learned counsel for the petitioner was trying to gain more and more time in this regard, thereby trying to abuse the process of court, which cannot be permitted.

It goes without saying that the court would not be at the mercy of the litigants like the petitioner. It is not even the argued case on behalf of the petitioner that petitioner was not granted full opportunity to put the two PWs to the cross examination. What more could be expected from the learned trial court which offered even the judicial file to the learned counsel for the petitioner so as to enable him to prepare the case for cross examination of the said witnesses on 30.9.2015. It seems that the petitioner was taking the court for a ride and he has no respect for law as well as for justice delivery system. In such a situation, learned trial court has been found fully justified on facts as well in law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner failed to point out any jurisdictional error or patent illegality apparent on the record of the case in the impugned order, so as to warrant interference at the hands of this Court, while exercising its revisional jurisdiction. Further, the arguments raised by learned

counsel for the petitioner have been found contrary to the observations made by the learned trial court in the impugned order, thus, the same have not been found worth acceptance.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present criminal revision petition stands dismissed, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

31.10.2015
AK Sharma