

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

**Criminal Misc. No. M-11362 of 2016
Date of Decision:-30.08.2016**

Raman Kumar

...Petitioner

Versus

Jagmeet Singh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. K.S. Dhillon, Advocate
for the petitioner.

Mr. Jagmeet Singh, Advocate
for respondent No.1.

HARI PAL VERMA J.(Oral)

Petitioner Raman Kumar has filed the present petition under Section 482 Cr.P.C. impugning the order dated 28.10.2015 (Annexure P-5) passed by learned Judicial Magistrate 1st Class, Jalandhar, whereby the cross-examination of the complainant i.e. CW1 was treated as NIL and was closed. Challenge has also been laid to the order dated 21.1.2016 (Annexure P-6) whereby the application under Section 311 Cr.P.C. filed by the petitioner-accused for recalling the witness CW1 was dismissed.

Learned counsel for the petitioner states that the application filed by the petitioner under Section 311 Cr.P.C. for recalling the complainant for the purpose of cross-examination was dismissed primarily

on the premises that the petitioner-accused was given ample opportunities but has failed to cross-examine the witness i.e. CW1. He states that no doubt on 1.9.2015 a statement was suffered before the trial Court that the accused will definitely cross-examine the complainant, but he could not cross-examine the said witness as he required the certified copy of the order to be produced in the case. Accordingly, on 14.9.2015 last opportunity was granted to the petitioner to cross-examine the witness subject to payment of costs. He further states that the cross-examination of the witness is necessary for the just decision of the case and the petitioner is ready to compensate the complainant in the event of one effective opportunity is granted to him.

Learned counsel for respondent No.1 has argued that the petitioner has been given ample opportunities and as many as 14 opportunities have been granted to him but he has failed to cross-examine the witness. Therefore, the petitioner has no right to claim another opportunity to cross-examine the witness. He further states that due to non-cross-examination by the petitioner, the complainant is unnecessarily facing harassment and suffering. He submits that in case an opportunity is to be granted, the same should be on adequate costs.

I have heard learned counsel for the parties.

No doubt the petitioner has already been granted enough opportunities to cross-examine the witness. Despite last opportunity also, he has failed to cross-examine the witness. However, considering the fact that provisions of Section 311 Cr.P.C. are liberal in nature, therefore in

order to meet the ends of justice, one last effective opportunity is granted to the petitioner to cross-examine the witness i.e. CW1 but the same would be subject to payment of costs of Rs.15,000/-, to be paid to the complainant before granting the opportunity.

Accordingly, the orders dated 28.10.2015 (Annexure P-5) and dated 21.1.2016 (Annexure P-6) are set aside and the petitioner is granted one last effective opportunity to cross-examine the witness as per above terms.

Disposed of.

August 30, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No