

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-15228 of 2016(O&M)****Date of Decision: May 05, 2016**

M/s Laxmi Rice and General Mills and others

...Petitioners

VERSUS

Punjab State Warehousing Corporation (PSWC), Ludhiana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Ashish Bansal, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent Punjab State Warehousing Corporation (PSWC) for quashing of order dated 23.12.2015 passed by learned Judicial Magistrate Ist Class, Ludhiana and also for quashing of order dated 15.03.2016 passed by learned Addl. Sessions Judge, Ludhiana, vide which the revision filed by the petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that on 23.12.2015, learned JMJC, Ludhiana passed the following order:-

"Today the case was fixed for cross-examination of complainant or the last date of hearing the witness was not cross-examined by the counsel for the accused and

he requested to adjourn the case for today and stated at bar that he will surely start cross-examination of the witness at 11 a.m. The case has been called for several times since morning today, but the counsel for the accused did not appear in the court. It is 12.55 p.m., the witness Santokh Singh is present for cross-examination but the counsel of the accused is not available for cross-examining the witness. This was the 7th opportunity given to the defence counsel for cross examining the witness. The case falls in action plan category. Hence, the cross-examination of the witness treated as NIL, Opportunity given.”

Learned counsel for the petitioner has not stated that any of the reasoning given in the order is against or contrary to the record. Learned counsel for the petitioner has admitted that this was the 7th opportunity for the cross-examination of witness Santokh Singh. He also admitted that on the last date of hearing, learned counsel stated at bar that on the next date, he will start the cross-examination of the witness at 11.00 a.m. Despite giving undertaking at bar to the Court, counsel did not appear on the next date upto 12.55 p.m. for cross-examination of witness Santokh Singh.

Keeping in view these facts and circumstances, I find that the trial Court has no other alternative except to give the opportunity to the accused and it is treated as 'Nil, opportunity given'. From the record itself, it is clear regarding conduct of the petitioner, who have engaged counsel with their own free will. They are knowing that the witness is not being cross-examined for six times. The accused cannot be allowed to harass the complainant or witness in such a away.

The impugned order dated 23.12.2015 passed by learned

JMIC, Ludhiana is an interlocutory order and revision against this order before learned lower Appellate Court is not maintainable and only proceedings under Section 482 Cr.P.C. lies before this Court. In view of the discussion, I find that the impugned order dated 23.12.2015 passed by learned JMIC, Ludhiana, is correct, as per law and does not amount to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

May 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE