

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-2801 of 2016

Date of decision : 25.01.2016

Princy

... Petitioner

versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Anterpreet Singh, Advocate for the petitioner

ANITA CHAUDHRY, J.(ORAL)

This is a petition for quashing the order dated 30.11.2015 passed by Chief Judicial Magistrate (NRI Cases) Jalandhar in FIR No. 17 dated 06.10.2014 registered at P.S. NRI, District Jalandhar City.

Learned counsel for the petitioner contends that the trial Court denied him the right of cross examination. He further urges that when the matter was taken up on 30.11.2015, counsel for the petitioner was present and the complainant was also present and the cost had been handed over and the matter was passed over because the public prosecutor was not present at that time and when the matter was again taken up the complainant was not available in the Court and had gone to call her counsel and finally when the case was taken up for the third time counsel for the petitioner was busy in some other Court and he was not present to cross examine the witnesses and no effective opportunity was being given for cross-examination.

I have heard counsel for the petitioner and have perused the zimni orders dated 14.10.2015, 9.11.2015 and 30.11.2015. The position as stated above is not reflected from the record. The witness was present on 14.10.2015 and adjournment was sought by the accused and the case was adjourned on payment of costs. On the adjourned date of hearing the witness

was present in the Court but there was no appearance on behalf of the accused. In the later part of the day it had been stated that the counsel was not well. The costs which were imposed on the previous hearing were not offered or paid. The application seeking exemption of the counsel was dismissed and cost of Rs. 1000/- was ordered to be paid to the complainant. It had been noted that the complainant was very poor and found it difficult to come on each date of hearing. On 30.11.2015 costs were paid but the witness was not cross-examined and opportunity was given which was not availed and the case was adjourned for examination of other witnesses.

Learned counsel for the petitioner contends that one opportunity may be given for the reason which were beyond the petitioner and the cross examination could not be effected and they were ready to abide by any condition.

A perusal of the record shows that the case had been adjourned thrice for cross-examination by the defence. It appears that petitioner was purposely taking adjournments. The absence of the lawyer can not be a ground for adjournment. The accused should have made alternative arrangement. The complainant can not be summoned to the Court again and again. I am of the view that the interest of justice would demand that one opportunity be granted to the petitioner but it would be on payment of Rs. 5000/- which would be paid to the complainant. It is also ordered that the defence counsel should be available on the first call made in the case and would not seek a pass over or an adjournment. The trial Court would summon the complainant on a date convenient to it and would complete the examination on the same date.

The petition is disposed of .

(ANITA CHAUDHRY)
JUDGE

January 25, 2016