

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

154

CRM-M-32090-2016 (O&M).
Decided on: September 14, 2016.

Lakhvir Singh

.. Petitioner(s)

VERSUS

State of Punjab and others

.. Respondent(s)

* * *

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

* * *

PRESENT Mr.Ramesh Sharma, Advocate,
for the petitioner.

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

Petitioner is a complainant in a criminal case. He had filed an application under Section 311 Cr.P.C., for his further cross-examination. Said application has been dismissed, inter alia, on the ground that the petitioner had been inadvertently summoned as complainant for 5.7.2016 as well as for 1.8.2016. No doubt his cross-examination had been deferred on 7.5.2013 and he was bound down for 24.7.2013 but neither the complainant offered himself for cross-examination thereafter despite the fact that he was appearing in connected complaint case nor prosecution offered him for cross-examination. It appears that the petitioner has been cross-examined to some extent. It is observed in the impugned order that application under Section 311 Cr.P.C. had been filed after final arguments. The trial Court has observed that application has been filed to fill in the lacunae.

A perusal of the statement of the complainant- petitioner

dated 7.5.2013, reflects that his further cross-examination had been

deferred, as such, the petitioner could have been permitted to be cross-examined by allowing the application under Section 311 Cr.P.C.

Notice to the respondents.

On asking of the Court, notice has been accepted by Ms.H.K.Athwal, DAG., Punjab, present in the Court. Copy given.

Mr.A.P.S.Guliani, Advocate, accepts notice on behalf of respondent Nos.2 to 4 contending that the arguments had been heard when the application under Section 311 Cr.P.C. was filed by the petitioner, as such, it was not maintainable ad that the petitioner had earlier also filed an application under Section 311 Cr.P.C., in which he only sought relief of summoning PW.5 as a witness for cross-examination implying thereby that he had forfeited his right to be further cross-examined.

I have considered the contention of the learned counsel for the complainant-petitioner as well as the learned counsel for the accused and I am of the opinion that as per the record, cross-examination of the petitioner had been deferred by the Court which on account of inadvertence could not be completed. In case the accused does not want to further cross-examine the witness, it is always open to him to make a statement that no further cross-examination is required by the accused.

In view of above said circumstances, this petition is allowed. The impugned order dated 8.8.2016, is set aside and application under Section 311 Cr.P.C. of the petitioner is allowed with a direction that the petitioner will put in appearance before the trial Court on 17.9.2016 and offer himself for further cross-examination. It will be open to the defence counsel to make a statement that the accused do not want to further cross-examine the petitioner. Thereafter, it will be open to the trial Court to proceed with the case

in accordance with law.

It is made clear that in case the petitioner fails to offer himself for cross-examination as stated above, this petition will be deemed to have been dismissed.

September 14, 2016.
rka

Whether speaking / reasoned
Whether Reportable:

Yes / No
Yes / No

(M.M.S. BEDI)
JUDGE