

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33724-2015

Date of Decision: February 15, 2016

Kewal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Rishu Mahajan, Advocate,
for the petitioner.

Mr. P.S. Paul, DAG, Punjab.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Challenge in this petition filed under Section 482 Cr.P.C., is to the order dated 30.05.2015 (Annexure P-2) and order dated 24.08.2015 (Annexure P-4), passed by learned Additional Sessions Judge, Amritsar, whereby the opportunity to cross-examine PWs, ASI Kuldeep Singh and Head Constable Nanak Singh, was declined and the application for recalling them for cross-examination was also dismissed.

Learned counsel for the petitioner contends that due to

unavoidable circumstances, the learned defence counsel could not appear before learned Trial Court on 30.05.2015, and, as such, instead of declining the right of cross-examination to the petitioner, learned Court should have adjourned the case by imposing the costs, etc. The petitioner is facing the trial for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, for retaining approximately 100 gms. of commercial quantity of intoxicated powder, containing Diphenoxylate Hydrochloride, which is punishable for minimum rigorous imprisonment for ten years with minimum fine of ₹1,00,000/- (Rupees One Lac only).

In view of the serious sentence to be awarded to the petitioner, learned Court below should not have adopted the harsh view in not affording an opportunity to the petitioner to cross-examine the witnesses.

Learned counsel for the State has opposed the prayer of learned counsel for the petitioner, but fairly conceded that the petitioner is facing the serious charge for retaining approximately 100 gms. of commercial quantity of intoxicated powder, containing Diphenoxylate Hydrochloride, and, as such, one opportunity be afforded to him to cross-examine the two witnesses, mentioned hereinabove, subject to payment of costs.

After hearing learned counsel for the parties, this Court also deems it fit that one effective opportunity be afforded to the petitioner to cross-examine ASI Kuldeep Singh and Head Constable Nanak Singh, subject to payment of costs of ₹3,000/- (Rupees Three Thousand only), to be deposited with District Legal Services Authority, District Amritsar.

As a sequel to the above, the order dated 30.05.2015 (Annexure P-2) and order dated 24.08.2015 (Annexure P-4), are set aside and it is directed that PWs ASI Kuldeep Singh and Head Constable Nanak Singh, be called for cross-examination, subject to payment of costs of ₹3,000/- (Rupees Three Thousand only), as indicated hereinabove. It is made clear that if the petitioner under the garb of the present order attempts to delay the trial, then learned Court below shall be entitled to proceed with the trial in accordance with law.

Disposed of accordingly.

February 15, 2016

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**(NARESH KUMAR SANGHI)
JUDGE**