

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

**Crl. Misc. No.M-41395 of 2015
Date of decision :06.01.2016**

Vinod Dutta and another

.....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Rakhi Sharma, Advocate
for the petitioners.

ANITA CHAUDHRY, J.

Heard.

The petitioners are facing trial in FIR No. 61 dated 07.02.2015 registered under Sections 304-B/34, 316 IPC, Police Station A Division, District Amritsar. The trial had begun and three witnesses were examined on 20.11.2015. Their cross-examination was recorded as nil.

The counsel states that the counsel who had appeared for the accused, did not have his brief ready and was not in a position to cross-examine the witnesses and he sought time which was not given. He states that the petitioners are in custody and the Court should have accommodated the counsel for one date. It was urged that the charge had been framed on 02.11.2015 and 20.11.2015 was the first date on which the witnesses were present and it was not a case where there was a delay.

A perusal of the record shows that the charge had been framed on 02.11.2015. On the next date fixed for prosecution evidence i.e. 10.11.2015, the accused was not produced and the case was adjourned to

20.11.2015. Though the counsel who was appearing for the accused on 20.11.2015 had been engaged by the accused before the charge had been framed but it appears that he was not ready for cross-examination though he had sought time but he failed to cross-examine the witnesses. The trial Court gave an opportunity for cross-examination which was not availed.

The petitioners are facing serious allegations. It was the first date and in my view the trial Court should have imposed heavy cost upon the accused as it would have required the presence of the witnesses.

The counsel for the petitioners states that they may be given one opportunity and they would cross examine the witnesses on the date fixed by the Court. The prayer is allowed. One opportunity is granted to the petitioners to cross-examine the witnesses but on payment of Rs.5,000/- as costs. This amount be paid to the witnesses before the cross-examination commences. The trial Court would fix a date convenient to it and would summon the three witnesses again for their cross-examination. The petition is allowed on the above terms.

06.01.2016

sunil

**(ANITA CHAUDHRY)
JUDGE**