

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-24368-2016 in/&
CRM-M- 9168-2016 (O&M)
Date of decision: August 12, 2016.

Lakhwinder Singh

... **Petitioner**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Simranjeet Singh Srawara, Advocate for the petitioner.
Shri Shailesh Gupta, Additional Advocate General, Punjab.

A.B. Chaudhari, J. (Oral):

Heard Learned Counsel for the rival parties.

The case has come up because of filing of CRM No.24368 of 2016. On the oral motion made, the main case is taken up on board for final disposal.

Learned Counsel for the petitioner has sought stay of the trial before the trial Judge which is pending since 2011 under Sections 353 and 186 IPC in FIR No.53 dated 24.8.2011, registered at Police Station Ghanaur, District Patiala. Learned Counsel for the petitioner submits that indeed there was a default on the part of the petitioner-accused in not appearing on the date on which PW3 Baljinder Kaur was examined and her examination in chief was recorded. Since the petitioner was absent, she was not cross examined and as such the same was treated as 'nil'. He submits that now the trial is fixed for 16.8.2016 and serious prejudice would be caused to the petitioner if he is not allowed to cross examine the main witness PW3

Baljinder Kaur who was allegedly assaulted by the petitioner as per the prosecution case.

In my opinion, the petitioner is really at fault in not appearing on the date when the main witness PW3 Baljinder Kaur appeared for her evidence before the trial Judge in an old case of 2011. But then, that was the first chance when PW3 Baljinder Kaur had come to the court for examination in chief which was recorded. It will not be in the interest of justice to allow the evidence of PW3 Baljinder Kaur go unchallenged without any cross examination from the petitioner-accused. That may lead to multiplicity of litigation warranting further orders on remand in the appeal if conviction is recorded. I, therefore, think that by imposing some cost on the petitioner for his default, the petitioner should be allowed to cross examine PW3 Baljinder Kaur in the interest of justice.

In that view of the matter, this petition, which is taken up for final disposal today itself, is allowed; the impugned order dated 18.5.2015 is quashed and set aside. The petitioner is allowed to cross examine PW3 Baljinder Kaur upon payment of costs in the sum of Rs.2,000/- before the trial Judge as a pre-condition for cross examining PW3 Baljinder Kaur. The petitioner shall appear before the trial Judge on 16.8.2016 and pay the costs and thereafter the trial Judge shall fix the date for cross examination of PW3 Baljinder Kaur and complete the trial within three months thereafter.

[A.B. Chaudhari]
Judge

August 12, 2016.
kadyan

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No