

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

CRR-2566-2015

Date of Decision: October 04, 2016

Amarjit Gupta

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Vivek Aggarwal, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, AAG, Punjab.

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

This is a petition against the order dated 13.07.2015, disallowing the petitioner-accused to cross-examine the two witnesses, i.e. PWs Sewa Singh, Superintending Engineer, and Bhagat Ram, Senior Assistant, office of HOUSEFED, Punjab, for not paying the expenses as ordered by the trial Court. The denial of an opportunity to cross-examine the prosecution witnesses by an accused for not paying the expenses, appears to be an

unreasonable restriction imposed upon the accused to have a fair trial by availing the opportunity of cross-examination, which is an important right given to the accused for impeaching the credibility of the witnesses and to enable the Court to arrive at a just conclusion.

It appears that the personal appearance of the co-accused of the petitioner had been exempted for 13.07.2015. On asking of the Court, regarding the status of the trial, learned counsel for the petitioner informs that after 13.07.2015, twenty eight more prosecution witnesses have been examined.

On the instructions of the petitioner, namely Amarjit Gupta, who is present in the Court today, learned counsel for the petitioner has made a statement at bar that the evidence of the prosecution has not been closed.

In view of the abovesaid circumstances, I am of the opinion that since the cross-examination of PWs Sewa Singh and Bhagat Ram, in context to Amarjit Gupta, has been marked as "Nil" on account of non-payment of the expenses of Rs. 2,000/- each to both the witnesses, another opportunity can be granted for cross-examining the said witnesses by re-calling them.

It is pertinent to observe here that the conduct of the petitioner is not appreciable as he has not facilitated the expeditious disposal of the case, which is pending since 2012. In

order to avoid further delay, the order dated 13.07.2015, is hereby set aside with a direction that the petitioner will pay costs of Rs. 5,000/- each for the said two witnesses. He will deposit the said costs on the next date of hearing along with an application under Section 311 Cr.P.C., to summon Sewa Singh and Bhagat Ram. The said application will be allowed by the trial Court, subject to depositing of the aforesaid amount of costs. A date will be fixed by the trial Court for summoning the said witnesses for one particular date on which the defence counsel would be allowed to cross-examine the witnesses. A sum of Rs. 5,000/- each for the two witnesses will be deemed to be cost of adjournment as per the provision of Section 309 Explanation 2 Cr.P.C. It is made clear that in case any evasive approach is adopted by the petitioner in cross-examining the witnesses, the trial Court shall have a right to deny the opportunity of cross-examination.

The revision petition is allowed in above terms.

(M.M.S. BEDI)
JUDGE

October 04, 2016
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Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No