

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

CRL. MISC. No.M-10898 OF 2017
DATE OF DECISION : 30th MARCH, 2017

Paramjit Singh & another

.... Petitioners

Versus

State of Punjab

.... Respondent

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

* * * *

Present : Mr. Kunal Dawar, Advocate for the petitioners.

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A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith.

Notice of motion.

Ms. Rajni Gupta, Addl. A.G. Punjab, who is present in Court, accepts notice on behalf of the State.

Heard learned counsel for the rival parties. Perused the *zimini* orders reproduced on record by the petitioner on pages 10 and 11 of the paper book.

Both the courts below have rejected the application for recalling PW-1 HC Raj Kumar for cross-examination, almost at the end of the trial. He is the Investigating Officer (IO) in the case in the prosecution against the petitioner. Both the Courts below concurrently found that the reasons given by the petitioner for recalling the said PW-1 for cross-examination were factually incorrect. In contrast, the learned counsel for the petitioner shown me the *zimini* orders and contended that what Courts below have said is incorrect.

In my opinion, since PW-1 is IO who conducted the investigation and deposed before the Court in examination-in-chief even if the petitioner is to be blamed the said prosecution witness should not

be allowed to go without cross-examination. I think that is a valuable right, particularly because it is the IO who is required to be cross-examined. The trial Court appears to have rejected the request for recall as it was an action plan case. He may be right in that but then it would not take much time of the Court if the petitioner is allowed to cross-examine the IO in the interest of justice.

Therefore, without finding any fault with the request given by the courts below I make the following order:

ORDER

- (i) CRL. MISC. No.M-10898 OF 2017 is allowed.
- (ii) The impugned orders are quashed and set aside.
- (iii) The petitioner shall be given an opportunity to cross-examine PW-1 HC Raj Kumar in single date, subject to payment of costs amount of ₹5,000/- to be forfeited to the State of Punjab as a pre condition for compliance of this order.
- (iv) The petitioner to place copy of this order before the trial Court and if possible the trial Court may summon PW-1 HC Raj Kumar on 10.04.2017 or on other suitable date thereafter for cross-examination.

Disposed of accordingly.

30th March, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE