

121

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

CRM-M-13351 of 2017

Date of decision: April 24, 2017

Lakhwinder Singh alias Lakha

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. G.S. Bhatia, Advocate for the petitioner.

A.B. CHAUDHARI, J (Oral)

Notice of motion.

At the asking of the Court, Mr. A.S. Kler, DAG Punjab
accepts notice on behalf of the State.

Rule. Heard forthwith with the consent of learned counsel
for the rival parties.

What is impugned in the present petition is the order dated
06.04.2017 (Annexure P-4) by which the learned trial Court refused to
defer the cross-examination in the light of the Supreme Court decision
in the case of **State of UP vs Shambu Nath Singh, (2001) 5 SCC 667.**

No fault can be found out in rejecting the prayer for cross-
examination. In any case, the trial Court has given reasons that it is for
the second time, it was being done. Be that as it may, fact of the matter
is that Lakhwinder Singh, the present petitioner could not cross-
examine the witness brought before the Court and the reason asking
for deferment was that his Advocate was not present and was present

in some other Court. The trial Court rejected the application as the accused did not sign the application. That may be so but fact remains that the prayer for deferment of cross-examination has been rejected. Learned counsel for the petitioner-Lakhwinder Singh, on instructions makes a statement that he should be given one opportunity to cross-examine the witness through his Advocate and would not make any fault in the proceedings before the trial Court hereinafter.

I do not find any fault with the order made by the trial Court, but then, it would also not be fair to allow the witness to go without the test of cross-examination, particularly when the petitioner-Lakhwinder Singh could not cross-examine the witness through his Advocate, but that is by way of last opportunity only and subject to payment of costs.

In that view of the matter, this petition is allowed. Impugned order dated 06.04.2017 (Annexure P-4) is quashed and set aside. Petitioner be given an opportunity to cross-examine PW1-ADCP Harjit Singh, subject to costs in the sum of ₹15,000/- to the State of Haryana by depositing the same before the trial Court as a pre-condition for cross-examine the said witness.

(A.B. CHAUDHARI)
JUDGE

April 24, 2017
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No