

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

CRL. MISC. No.M-25356 OF 2017 (O&M)
DATE OF DECISION : 19th JULY, 2017

Laykat Rai

.... Petitioner

Versus

State of Punjab

.... Respondent

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

* * * *

Present : Mr. Ramandeep Singh Pandher, Advocate for the petitioner.
 Mr. Ramandeep Sandhu, Sr. D.A.G. Punjab.

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A. B. CHAUDHARI, J. (ORAL)

Heard.

Notice of motion.

Mr. Ramandeep Sandhu, Sr. D.A.G. Punjab accepts notice
on behalf of the State.

Rule.

Heard forthwith with consent of learned counsel for the
parties.

Following is the prayer made in the present petition:

“That the present petition may kindly be
allowed, the order dated 07.03.17 passed by the
Special Judge (PC Act) Mohali/Additional Sessions
Judge, S.A.S. Nagar (Mohali) may kindly be quashed
and one opportunity may kindly be awarded to the
petitioner for cross examination of witnesses PW-3
to PW-7 i.e. Raja Singh, Jagjit Singh, Avtar Singh,

Narinderpal and Ravinder Singh, in the interest of justice.

And

Any other orders or direction, as this Hon'ble Court may deem fit, in the facts and circumstances of the present case, may kindly be issued.

It is further prayed that proceedings before the trial Court may kindly be stayed during the pendency of the present petition before this Hon'ble Court in the interest of justice.”

Perused the impugned order dated 07.03.2017. Application dated 19.01.2017 for recalling the witnesses numbering five for cross-examination by Advocate for the petitioner, was rejected by the trial Court in a pending trial SC No. PC No.4 dated 31.05.2016.

Perusal of the reasons in para four of the order dated 07.03.2017 shows that the official witnesses were present but the Advocate for the petitioner, though was given some time to cross-examine the witnesses, did not appear and did not cross-examine the witnesses. The Court was compelled to discharge the witnesses, since the counsel for the petitioner did not appear to make the cross-examination. The application for recall of the witnesses for cross-examination made by the petitioner also has been dismissed.

Undoubtedly, the petitioner and his counsel were at fault for not appearing promptly before the Court and cross-examine the witnesses but then in a trial which involves a serious charge against the petitioner the witnesses should not be allowed to go without cross-examination, in

the interest of fair play and principles of natural justice. The multiplicity of the proceedings will have to be avoided.

In that view of the matter, I think the petitioner should be given one more chance but subject to payment of some costs to the State of Punjab. The petitioner is an Executive Engineer and said to be under suspension.

In the result, I make the following order:

ORDER

- (i) CRL. MISC. No.M-25356 OF 2017 is allowed.
- (ii) The impugned order dated 07.03.2017 (Annexure P-1) passed by Additional Sessions Judge, SAS Nagar (Mohali) is set aside.
- (iii) The trial Court shall recall the witnesses for cross-examination by the petitioner and the petitioner shall, with promptitude, see that the witnesses are cross-examined. In case the Advocate for the petitioner does not remain present, the petitioner is at liberty to make some other arrangements, but will not be granted any opportunity thereafter.
- (iv) The above order is subject to deposit of ₹25,000/- with the trial Court, to be forfeited to the State of Punjab.

19TH JULY, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No</i>