

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

Sr. No.201

**CRM No.M-28417 of 2017**  
**DECIDED ON: August 29, 2017**

**DILBAGH SINGH @ BAGHA**

**..PETITIONER**

**VERSUS**

**STATE OF PUNJAB**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present: Mr. P.B.S. Goraya, Advocate,  
for the petitioner.

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

Mr. Sarbjit Singh, Advocate,  
for the complainant.

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**JASPAL SINGH, J. (ORAL)**

By virtue of the instant petition preferred under Section 482 Cr.P.C., petitioner has sought the setting aside of order dated July 26, 2017 (Annexure P-1) passed by learned Additional Sessions Judge, Tarn Taran, whereby an application preferred by the petitioner for adjournment and providing an opportunity for the purpose of cross-examination of witnesses namely Shera Partap Singh-PW1 and Dhanbir Singh-PW2 has been ordered to be as "Nil" in case bearing FIR No.101, dated September 17, 2015, under Sections 307, 326, 323, 324, 365, 341, 148 & 149 IPC and 25, 27, 54, 59 Arms Act, registered at Police Station Jhabal, District Tarn Taran and further direction to the trial court to recall the aforesaid witnesses for

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affording opportunity to the petitioner and his co-accused for cross-examining the aforesaid witnesses.

2. Undisputably, order dated July 18, 2017 passed by this Court, prosecution was directed to examine all the material witnesses i.e. injured, medical officer and investigating officer on July 26, 2017 positively. But, it appears that aforesaid order was the result of miscommunication with regard to stage of the criminal trial pending in the Court at Tarn Taran. During subsequent proceedings, it has emerged that in fact the charges were not framed after the summoning of co-accused of the petitioner as an additional accused. The charges were framed on the same day i.e. July 26, 2017 and aforesaid witnesses namely Shera Partap Singh and Dhanbir Singh were examined. Since, defence counsel was not prepared with defence for conducting the cross-examination of aforesaid witnesses, he sought an adjournment for the purpose of cross-examination but that was declined by the trial court on account of reason that a direction has been issued by this Court to examine the witnesses on the said date. The miscommunication about the stage of the trial fixed for July 26, 2017 has resulted into miscarriage of justice and it amounted to non-affording of an opportunity to the defence to cross-examine the witnesses on account of which, petitioner as well as other accused are likely to be seriously prejudiced. In order to afford an ample opportunity to the petitioner as well as other accused, it is desirable and would also be justifiable to recall the witnesses already examined for the purpose of their cross-examination by the defence counsel.
3. With aforesaid observations, instant petition is allowed and order dated July 26, 2017 passed by the trial court is set aside.

4. As pointed out by learned State counsel on instructions from ASI Rajbir singh, Police Station Chabal, District Tarn Taran, trial is now listed for September 11, 2017. Let, witnesses namely Shera Partap Singh and Dhanbir Singh be made available before trial court for the purpose of cross-examination.

August 29, 2017  
*Ankur*

(JASPAL SINGH)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |