

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

237

**CRM-M-45244-2016(O&M)
Date of Decision: 25.09.2017**

Maghar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

Present: Mr. Sukhmeet Singh, Advocate
for the petitioner.

Mr. A.S. Dhaliwal, DAG, Punjab.

MAHABIR SINGH SINDHU, J. (Oral)

The present petition has been filed for quashing of the impugned order dated 11.05.2015 (Annexure P2) passed by the learned JMIC, Ludhiana, vide which the request of the petitioner to cross-examine the PW2 and PW3 was declined and revision against the said order has been dismissed by the learned Additional Sessions Judge, Ludhiana vide judgment dated 14.09.2016 (Annexure P3).

At the outset, it has been pointed out that petitioner is 85 years old and he seeks only one opportunity to cross-examine the PW2 and PW3, subject to payment of reasonable costs.

A perusal of the impugned order passed by the learned JMIC, Ludhiana reveals that PW2 was examined on 20.11.2014 and PW3 on 05.03.2015 and cross-examination was deferred at the request of the learned counsel for the petitioner twice and he is unnecessarily harassing the Pws.

Learned Additional Sessions Judge, Ludhiana, dismissed the revision as not maintainable.

On a pointed query by the Court, learned State counsel has informed that out of 17 only 7 PW's have been examined by prosecution. Thus, it is not the petitioner alone who is to be blamed for delay in the matter, rather prosecution is also equally responsible. There is no dispute that petitioner is an old person more than 85 years of age and he was present on both the dates i.e. 20.11.2014 and 05.03.2015 when requests were made by his counsel to defer the cross-examination of PW2 and PW3 and as such this is the fault of the counsel, for which this poor man should not suffer in the criminal trial.

Keeping in view the above facts and circumstances of the case, this Court deem, it appropriate to allow the present petition.

The petition is allowed and impugned orders dated 11.05.2015 and 14.09.2016, passed by the learned JMIC, Ludhiana and learned Additional Sessions Judge, Ludhiana, respectively are quashed. One opportunity is granted to the petitioner to cross-examine the PW2 and PW3, subject to payment of costs of ₹ 10,000/-. Costs to be paid to Distt. Legal Aid Society, Ludhiana.

(MAHABIR SINGH SINDHU)
JUDGE

September 25, 2017

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No