

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Revision. No.3817 of 2016

Date of Decision: 01.08.2017

Raj Kumar & another

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Harish Goyal, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

Petitioners have filed the present revision petition against order dated 26.9.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, whereby the application filed on behalf of the petitioners under Section 311 CrPC to recall PW-8 Dr. Neha Chakravarti for cross-examination was declined.

Learned counsel for the petitioners has argued that on 12.9.2016, PW-8 Dr. Neha Chakravarti was present and was examined-in-chief, but she could not be cross-examined on that day, as counsel for the petitioners-accused had to seek an adjournment on the ground that his sister was admitted in PGI and therefore, he was unable to cross-examine PW-8.

Accordingly, the case was adjourned to 14.9.2016, to be taken up at 2-30 P.M., for cross-examination of PW-8 Dr. Neha Chakravarti. However, on 14.9.2016, the file was taken up at 1-45 P.M. instead of 2-30 P.M., as mentioned in the impugned order dated 26.9.2017 itself, but since sister of the conducting counsel for the petitioners-accused had expired on 13.9.2016 and he was busy to perform her last rites, he could not turn up at 1-45 P.M. to cross-examine Dr. Neha Chakravarti PW-8. Resultantly, the application filed by the petitioners-accused seeking permission to cross-examine PW-8 Dr. Neha Chakravarti was dismissed.

On the other hand, learned State counsel says that the petitioners were afforded two opportunities, but they did not cross-examine PW-8 Dr. Neha Chakravarti and therefore, they have no right to seek her cross-examination.

Having heard learned counsel for the parties and considering the peculiar facts of the case, particularly when counsel for the petitioners was busy to attend his ailing sister who was admitted in PGI and ultimately died on 13.9.2016, this Court finds that there were reasonable grounds with the petitioners in not cross-examining the said witness PW-8. Even otherwise, this witness is required to be cross-examined by way of video-conferencing and she is not required to attend the Court.

Thus, the present revision petition is allowed and the petitioners are permitted to cross-examine PW-8 Dr. Neha Chakravarti.

Accordingly, the trial Court is directed to afford one effective opportunity to the petitioners to cross-examine the said witness.

It is made clear that only one effective opportunity shall be afforded to the petitioners to cross-examine PW-8 Dr. Neha Chakravarti and no further opportunity shall be granted.

August 01, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?	Yes / No
Whether reportable?	Yes / No