

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
121**

CRM-M-13066-2018

Date of decision: 02.04.2018

Harpreet Singh

...PETITIONER

VS.

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

Mr. Kuldeep Singh, Sr. Deputy Advocate General, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for setting aside the order dated 11.12.2017 passed by the Judicial Magistrate Ist Class, Mohali, whereby an application under Section 311 Cr. P.C. preferred by the petitioner for recall of two witnesses, namely, Head Constable Surjit Singh and Mechanic Ajit Singh stands dismissed.

On 28.03.2018, when the case came up for hearing before this Court, the following order was passed:-

“ Petitioner has approached this Court assailing the order dated 11.12.2017 passed by the Judicial Magistrate Ist Class, Mohali, whereby an application under Section 311 Cr.P.C. preferred by the petitioner for recall of two witnesses namely Head Constable Surjit Singh and Mechanic Ajit Singh, has

been dismissed.

Counsel for the petitioner states that the next date of hearing before the trial Court is 03.04.2018 for prosecution evidence. Cross-examination of these witnesses is essential and on the day when the cross-examination was recorded as nil by the trial Court, the counsel for the petitioner could not appear as he was preoccupied in the High Court. His submission is that there was no intention on the part of petitioner or his counsel to delay the proceedings before the trial Court but because of the fact that the counsel could not reach the trial Court because of the matter being pending in the High Court, the Court had proceeded to record the cross-examination as 'nil'. He prays for a last opportunity for cross-examination of the witnesses referred to above.

Notice of motion.

On the asking of the Court, Mr. Dhruv Dayal, Senior Deputy Advocate General, Punjab, accepts notice on behalf of the respondent.

List on **02.04.2018** in the urgent list.”

Counsel for the petitioner has reiterated his assertion, which has been recorded above.

Having heard the counsel for the parties and keeping in view the fact that the petitioner is only praying for one opportunity to cross-examine the witnesses, referred to above, i.e. Head Constable Surjit Singh and Mechanic Ajit Singh, the application under Section 311 Cr. P.C. preferred by the petitioner is accepted and the trial Court is directed to recall

the two witnesses for their cross-examination on a date, which may be fixed by the trial Court, on which date, the petitioner/counsel for the petitioner shall cross-examine these two witnesses.

It is made clear that only one opportunity shall be given to the petitioner/counsel for the petitioner to cross-examine these witnesses and no adjournment shall be granted once the witnesses come present.

Petition stands disposed of accordingly.

Copy of the order be given **dasti** under signatures of the Bench Secretary of this Court.

April 02, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No