

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

Crl. Misc. No.M- 18244 of 2018

Date of decision : 11.12.2018

Gurpreet Singh

....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

ANITA CHAUDHRY, J.

The petitioner has assailed the order dated 17.04.2018 passed by the Additional Sessions Judge, Patiala vide which the right of cross-examination had been closed.

Counsel for the petitioner contends that they have placed on record the zimni orders which would show that the witnesses were not appearing and bailable warrants were issued against them and on one occasion the complainant and the prosecutrix had appeared but the Court was busy and the case was adjourned. The counsel submits that on some dates no witness was present and on 10.04.2018 three witnesses were present and their examination-in-chief was recorded and the case was

adjourned to 17.04.2018 for their cross-examination and examination-in-chief of two more witnesses was recorded on 16.04.2018 and the case was adjourned for 17.04.2018 and the witnesses were bound down and their counsel sought time as he was not prepared and the matter was taken up again and their right of cross-examination was closed as the defence counsel did not appear. The counsel submits that the Court could have easily accommodated and adjourned the case and day-to-day hearing was going on and it was not a old case and they may be given one opportunity to cross-examine the five witnesses whose examination-in-chief was recorded on 10.04.2018 and 16.04.2018.

Zimni orders show that the prosecutrix and the private witnesses were not appearing in the beginning andailable warrants were issued. On some dates the case was adjourned due to paucity of time and the matter was being adjourned for over three months but in the month of April 2018 the Court was giving short adjournments which were less than a week. The right of cross-examination was closed as the defence counsel did not appear, though no justifiable reason has been shown. The accused should not suffer because of his counsel but considering that the matter is not very old, one opportunity can be given to the petitioner to cross-examine the prosecution witnesses.

The sum of Rs.7,500/-, which was ordered on 02.05.2018, if deposited in the High Court, would immediately be sent to the trial Court for disbursement to the witnesses. It is stated that case is fixed for 18.12.2018. The trial Court would fix the date convenient to it in January 2019 and call

the five witnesses and give an opportunity to the petitioner to cross-examine them. The petitioner would ensure presence of his counsel on the first call and would not ask for adjournment.

The petition is allowed on the above terms.

11.12.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No