

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

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CRM-M No.18932 of 2018

Date of Decision: May 16th, 2018

Vicky @ Vikram and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Paramjit Singh Jammu, Advocate
for the petitioners.

Mr. Kuldeep Sharma, Deputy Advocate General, Haryana.

Mr. Gaurav Tyagi, Advocate
for respondent No.2-complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for setting aside the order dated 31.03.2018 (Annexure P-2) by which the cross-examination of two witnesses i.e. PW-2 Kashmir Singh and PW-3 Jitender Singh has been ordered to be treated as nil on behalf of petitioners-accused.

It is the contention of learned counsel for the petitioners that only one opportunity may be granted to the petitioners to cross-examine these two witnesses. It may be subject to costs as well as the non-appearance on the part of counsel for the petitioners before the trial Court for cross-examination of the witnesses is admitted as a mistake on the part of the counsel but the parties should not suffer because of the conduct of the counsel. He, therefore, prays that the present petition may be allowed.

Counsel for the complainant has vehemently opposed the prayer made by the counsel for the petitioners.

Having considered the submissions made by learned counsel

for the parties and keeping in view the fact that because of the conduct of the counsel, the accused who are petitioners herein, should not suffer, the present petition is allowed subject to payment of ₹20,000/- to the complainant.

It has been brought to the notice of the Court that the next date of hearing before the trial Court is 18.05.2018 for appearance of prosecution witnesses. Counsel for the complainant states that the complainant, who is residing in Spain, will be coming back in the first week of June and, therefore, any date in the second week of June may be fixed for his cross-examination as well as the cross-examination of the other two witnesses namely PW-2 Kashmir Singh and PW-3 Jitender Singh.

In view of the above, the trial Court is directed to list the case on **11.06.2018** after recording the evidence of the witnesses present on the day already fixed, on which date the complainant as well as the other two witnesses referred above would appear and only one opportunity is given to the petitioners or other accused to cross-examine them.

In case of some exigency if the witnesses are unable to appear before the Court on the said date, the Court may accordingly fix a date for the said purpose.

It is made clear that for cross-examination of each of the witnesses only one opportunity be given and not beyond that.

May 16th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No