

243 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Hemlata
2018.03.09 17:03
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CRM-M-25482-2017(O&M)

Date of decision:08.03.2018

Jasvir Singh @ Jasbir Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Manish Kumar Singla, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 05.09.2016 (Annexure P-2) passed by the trial Court, vide which, the trial Court has treated the cross-examination of PW-6-Sandeep Singh as nil as well as the order dated 12.06.2017 (Annexure P-3), vide which, the application filed by the petitioner for recalling the aforesaid order dated 05.09.2016, was dismissed.

Learned counsel for the petitioner submits that on 05.09.2016, the learned counsel for the petitioner-accused could not cross-examine the witness i.e. PW-6 Sandeep Singh, on account of ill health and the trial Court treated the cross-examination of the witness as 'Nil'.

Thereafter, the petitioner moved an application for recalling the said order with a prayer to grant one more opportunity to cross-examine PW-6-Sandeep Singh. However, the trial Court has dismissed the application on the ground that it is not maintainable.

Counsel for the petitioner submits that the right to cross-examine the prosecution witness is important right given to the accused person to put up his defence in the cross-examination and in case, the petitioner is denied this right, his right to avail defence shall be adversely effected.

Learned State counsel as well as counsel appearing for the complainant submits that the petitioner has availed number of opportunities, however, he is delaying the trial and that is why the trial Court has treated the cross-examination as 'Nil'.

After hearing learned counsel for the parties, I find merit in the present petition. Since PW-6 is an important witness and without his cross-examination, the right of the petitioner -accused will be adversely effected, this petition is allowed. The impugned order dated 05.09.2016 is set aside and the trial Court is directed to grant one effective opportunity to the petitioner to cross examination the witness i.e. PW-6 Sandeep Singh. However, it will be subject to payment of cost of Rs.5000/- to be paid to the complainant at the time of cross-examination.

The parties are directed to appear before the trial Court on 19.03.2018 and the trial Court will fix the date for cross-examination of PW-6.

(ARVIND SINGH SANGWAN)
JUDGE

08.03.2018
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No