

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

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**CRM-M-2584-2015 (O&M)
Date of Decision : 26.10.2018**

Harinderpal Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present: Ms. Isha Goyal, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Vipin Mahajan, Advocate for respondent No.2.

P.B. BAJANTHRI, J.(ORAL)

CRM-36314-2018 in CRM-34430-2018

This is an application for placing on record enclosed counter affidavit of respondent No.2 to CRM-34430-2018. Heard. Allowed, as prayed for subject to all just exceptions.

Main case

In the instant petition, petitioner has sought for setting aside/quashing the respective orders dated 28.11.2014 passed by learned Additional Sessions Judge, Gurdaspur (Annexure P-17) and (Annexure P-18) in Sessions case No. 14 instituted on 04.08.2009 arising out of FIR No. 102 dated 01.08.2004 registered under Section 336, 148, 149, 452 IPC and 25, 27, 54, 59 of Arms Act, Police Station City Batala whereby by amending charges added 307 IPC and denied the right of cross-examination to petitioner.

2. Learned counsel for the petitioner restricted prayer in the present

petition only in respect of challenge to Annexure P-18 relating to cross examination of prosecution witnesses. Insofar as challenge to Annexure P-17 it is given up.

3. On these issues learned counsel for contesting respondent has no objection only to the extent of quashing Annexure P-18 and permitting petitioner to cross examination of prosecution witnesses within the stipulated period.

4. Heard the learned counsel for the parties.

5. Two questions are involved in the present petition i.e.

- i) Whether court can amend the charge at the final stage i.e. at the stage of defence evidence or not?
- ii) Whether petitioner has legal right to cross-examine the witness after amendment of charge or not?

6. No doubt Section 216 of the Cr.P.C. provide ample power to amend the charge-sheet at any stage before passing of final judgment. But in view of the withdrawal of prayer on this issue, this court need not to consider the said issue.

7. Second point is concerned, petitioner has legal right to cross-examination of witness under the provision of Section 217 Cr.P.C. So, the answer is in affirmative. Therefore, in view of the above discussion and of no objection of the respondent, Annexure P-18 is set aside. Petitioners are permitted to cross-examine prosecution witnesses. Trial court is directed to afford reasonable opportunity to the petitioner to cross-examine the witness. Parties are directed to cooperate in the trial proceedings. Trial court is directed to complete cross-examination within a period of 6 weeks' from today.

8. Petition stands allowed in part. In view of the disposal of the main petition, pending CRMs also stands disposed of.

26.10.2018

pooja saini

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No