

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRM-M-27313 of 2017

Date of decision:21.2.2018

Sanjeev Kumar

... Petitioner

versus

Atul Khanna

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Vishal Satija, Advocate,  
for the petitioner  
Mr.Dhruv Gupta, Advocate,  
for the respondent  
...

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks one effective opportunity to cross-examine DW5, Smt. Suman Khanna. As recorded by this Court vide its order dated 31.7.2017, as per learned counsel she could not be cross-examined due to the inaction of counsel; though it is stated that she had been called for cross-examination but with it being shown in the order dated 5.7.2014 (of the trial Court) that no cross-examination was conducted despite opportunity given.

Notice having been issued in this petition on 31.7.2017, it remained pending till today, with either the turn of the case not having come up or, on the last two dates, none having appeared for the respondent. Today learned counsel for the respondent has appeared and submitted that one opportunity already having been granted for cross-examination and not having been availed of, the petitioner is not entitled to the relief claimed for.

He also cites a judgment of the Supreme Court in Akil @ Javed

vs. State of NCT of Delhi, 2013 (1) RCR (Criminal) 530, to submit that the trial Court in criminal proceedings should not adjourn matters unnecessarily and day to day proceedings should be conducted, unless adjournments are to be given for special reasons, with such special reasons not being for accommodation of lawyers for the accused or the accused himself/herself.

Having considered the aforesaid argument, in the present case, the contention of learned counsel for the petitioner is that the petitioner is suffering due to the 'apathy' of his counsel and therefore granting of one opportunity to cross-examine DW5 may be given upon payment of costs.

In the aforesaid situation, this petition is allowed to the extent that the petitioner will be given one opportunity only to cross-examine DW5, Smt.Suman Khanna, upon her being summoned by the trial Court and appearing in Court for such cross-examination.

The aforesaid would be subject to payment of costs of Rs.15,000/-, as the witness is stated to be about 80 years old.

Though learned counsel for the petitioner opposes the costs stating that it is excessive and wishes to cite certain judgments on that issue, in the opinion of this Court, the petitioner having 'left out' the opportunity to cross-examine her once, such cross-examination now can be granted only by payment of the aforesaid costs.

The petition is allowed to the aforesaid extent.

21.2.2018  
pk

**( AMOL RATTAN SINGH )**  
**JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No