

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

**CRM-M No.4030 of 2018 (O&M)
Date of Decision: 04.04.2018**

Tejbir Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Akash Vashisth, Advocate for the petitioner.

Mr. Vikas Chopra, Deputy Advocate General, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition under Section 482 Cr.P.C. has been filed by the petitioner against the impugned order dated 04.12.2017 (Annexure P-5), passed by learned Judicial Magistrate 1st Class, Karnal, vide which his request for deferring the case for cross-examination of Satyajeet Singh (PW-3) and Baljeet (PW-4) has been declined.

It is contended by learned Counsel for the petitioner that both are material witnesses and in case, they are not cross-examined then the case of the petitioner will be seriously prejudiced.

On the other hand, learned State Counsel has opposed the contention on the ground that the prosecution evidence is still going on and due opportunities for cross-examination of PW-3 and PW-4 have been afforded, but despite that, the petitioner did not avail the same.

Heard both the sides.

Perusal of the examination-in-chief of PW-3 reveals that he has specifically stated that he has taken the injured in an Ambulance to the General Hospital, Karnal and he had seen the Bus Driver on the spot at the time of occurrence, who is present in the Court.

So far as PW-4 is concerned, he has simply identified the dead-body of the deceased.

Be that as it may, accused has a right to cross-examine the prosecution witnesses, but in the present case, the petitioner was not able to do so in the absence of his Counsel on that day when examination-in-chief of PW-3 and PW-4 was recorded and as such, his valuable right is forfeited which is inbuilt for a fair trial. Thus, in view of the facts and circumstances of the present case, this Court deems it appropriate that one effective opportunity be granted to the petitioner to cross-examine PW-3 and PW-4 subject to payment of Rs.2000/- as costs, to be paid to both the witnesses (Rs.1000/- each).

Consequently, the present petition is allowed and the impugned order dated 04.12.2017 (P-5), passed by learned Judicial Magistrate 1st Class, Karnal is set aside and the petitioner is granted one opportunity to cross-examine PW-3 and PW-4 on the date, to be fixed by the learned trial Court.

It is made clear that the petitioner shall cooperate with the learned trial Court.

Disposed off accordingly.

April 04, 2018

(MAHABIR SINGH SINDHU)
JUDGE

Gagan

Whether speaking/reasoned	Yes
Whether Reportable	Yes