

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

Crl. Misc. M 42994 of 2017 (O&M)
Date of decision: 22.2.2018

Inderjit Singh Maggo

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Swarn Tiwana, Advocate
for the petitioner.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the order dated 30.5.2017, passed by the learned Judicial Magistrate, Ist Class, Amloh (Annexure P/1), vide which the cross-examination of the petitioner has been closed, and the order dated 4.10.2017 passed by the learned Additional Sessions Judge, Fatehgarh Sahib, vide which the revision filed against the order dated 30.5.2017 was dismissed, being not maintainable.

Notice of motion in this case was issued subject to payment of Rs. 25,000/- towards litigation expenses. Today learned counsel for the petitioner submits that the petitioner does not have sufficient source of income to pay the aforesaid amount, as directed by this Court and prays that in the interest of justice, an opportunity be granted to the petitioner to cross-examine PW-1 Bharti Chawla. He further submits that the counsel for the

petitioner was regularly appearing in the case, however, on the date when the impugned order was passed, the counsel was held up in another court and as such cross-examination of Bharti Chawla could not be conducted and the petitioner should not be made to suffer on account of the lapse on the part of his counsel.

I have heard learned counsel for the petitioner and perused the zimni orders annexed with the file.

A perusal of the zimni orders would reveal that the chief examination of PW-1 Bharti Chawla, who is complainant in this case, was recorded on 26.4.2016 and thereafter case was adjourned for 30.5.2016. On 30.5.2016, since no PW was present, the case was adjourned for 12.8.2016. On 12.8.2016, though PW-1 was present in Court and she requested for a date and, accordingly the case was adjourned for 2.9.2016. On 2.9.2016, again since no PW was present, the case was adjourned to 17.10.2016. In the meantime, respondent No.2 filed an application for transfer of the case and the case was transferred to the present court.

After transfer of the case, on 20.12.2016, an application for amendment of the charge sheet was allowed and on 1.2.2017, charges were framed against the petitioner and the case was adjourned to 22.2.2017. On 22.2.2017, PW1 was partly cross-examined and the case was adjourned for 27.3.2017, on which date both the witnesses were present but the court had adjourned the case for 11.5.2017. On 11.5.2017 since the Presiding Officer was on leave, the case was adjourned for 23.5.2017. On 23.5.2017, PW-1 was not present though another witness Savinder Chawla was present and as

such the case was adjourned for 30.5.2017, when the impugned order came to be passed.

From the narration of the above facts, it is clear that the petitioner's counsel was regularly appearing in the case, but for the date when the impugned order was passed. It is well settled principle of law that a litigant cannot be allowed to suffer on account of the fault of his/her counsel. The courts are meant to secure the ends of justice between the parties. Therefore, if an opportunity is granted to the petitioner to cross-examine PW-1 Bharti Chawla, no prejudice would be caused to the complainant.

For the reasons recorded above, the present petition is allowed. The petitioner is granted one last opportunity to cross-examine PW-1 Bharti Chawla, on the date to be fixed by the trial court, subject to payment of Rs. 10,000/- to be paid to respondent.

22.2.2018

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No