

CRM-M-47305 of 2017

Date of Decision: 05.02.2018.

Ramanjeet Singh

...Petitioner

Versus

M/s H.S. Metals and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Anupam Singla, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J. (ORAL)

Inspite of service, none has appeared on behalf of the respondents.

Impugned order dated 04.08.2017 transpires that the petitioner/accused was present in the court and examination-in-chief of CW-1 Sunil Virmani was recorded, but learned counsel for the petitioner was not present. The Court waited for the counsel for the petitioner from 9:30 a.m to 12:55 p.m. but none appeared on his behalf to cross examine the said witness. Again, the post lunch session, none had appeared on behalf of the petitioner. As such, learned Magistrate passed the following orders:-

“File taken up in after lunch session, CW is present for examination but learned counsel for the accused has not come present for the examination of CW present in the Court. Opportunity for cross-examination of the present witness is given to the accused but on one has appeared on behalf of the accused. It seems that the learned counsel for the accused is not interested to examine the witness present in the court.

Therefore, there is no ground to adjourn the present complaint for the examination of present witness is rendered Nil.

Complainant has availed sufficient opportunities including last opportunity. So no ground is made to adjourned the case for further evidence of the complainant. As such, the evidence of the complainant deems to be closed as the accused has sought for cross-examination of any other witness of the complainant. Hence in the interest of justice, case is adjourned to 31.08.2017 for recording the statement of accused under section 313 Cr. P.C.”

Learned counsel for the petitioner has submitted that complainant has taken various adjournments and he placed on various orders starting from 06.07.2016 to 13.07.2017, but this Court found no ground for avoiding the cross-examination of the respondent-complainant. However, fair trial of the parties is part and parcel of the judicial system.

Keeping in view the facts and circumstances of the matter, this revision petition is allowed, subject to payment of ₹5,000/- as costs, which shall be paid through bank draft to the witness. The petitioner is directed to cross-examine the witness on 16.02.2018 between 10:00a.m. to 12:30 p.m. In case, if he does not appear on the said date then, he shall not be given any opportunity to cross examine of the said witness.

The present petition is allowed accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

February 05, 2018

Jyoti-IV

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No