

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.209

CRM-M-8198-2017 (O&M)

Date of decision : 26.10.2018

Baldev Raj

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Wazir Singh, Advocate, for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

SUDHIR MITTAL, J. (Oral)

The petitioner is the accused in FIR No.10 dated 13.03.2012, registered at Police Station GRP, District Karnal, under Sections 323, 324, 34 IPC. His grievance is that his application under Section 311 Cr.P.C. for recalling the complainant for cross-examination has been rejected.

The bare essential facts are that the examination-in-chief of the complainant was recorded on 8.8.2014, however, the cross-examination was deferred as the complainant had moved an application under Section 319 Cr.P.C. The said application was decided on 12.12.2016 and the matter was adjourned for 14.12.2016 for cross-examination of the complainant. However, on the said date, he was not cross-examined and thus, the trial Court treated the right of the cross-examination to have been waived. The petitioner filed an application for recalling order dated 14.12.2016, but the same was dismissed vide order dated 21.01.2017 passed by JMIC, Karnal, which has been impugned in the present petition.

Learned counsel for the petitioner submits that cross-examination is a very important right of the accused and the petitioner has been deprived of this right in a very hasty manner. On 14.12.2016, the counsel for the petitioner was unable to cross-examine the complainant due

to his professional commitments and at least one more opportunity should have been granted for the said purpose.

The record reveals that only one opportunity was granted to the petitioner to cross-examine the complainant. In a criminal case, it is essential for the complainant to be cross-examined by the accused person. In case the impugned order is permitted to stand, the accused would be deprived of very important right. Thus, impugned order dated 21.01.2017 passed by JMIC, Karnal, is set aside and the petitioner is allowed one opportunity to cross-examine the complainant-PW4. The parties are directed to appear before the trial Court on 22.11.2018 at 10.00 a.m. The trial Court shall grant one opportunity to the petitioner at his own risk and responsibility.

Disposed of.

(SUDHIR MITTAL)
JUDGE

26.10.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No