

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-6389 of 2018
Date of Decision: 18.5.2018**

Gulshan Kumar @ Gulshan @ Goldy and othersPetitioners

Versus

State of Haryana and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. B.S.Dhillon, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana

Mr. D.S.Nain, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

The petitioners have assailed the order dated 19.8.2017 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Pehowa and the order subsequently by the revisional Court dated 8.1.2018 (Annexure P-1).

I have heard both the sides.

The zimni order shows that the prosecution witnesses had been appearing for 2-3 dates. The cross-examination was not conducted and repeated adjournments on behalf of the defence counsel were made. On one date, one of the accused did not appear. The trial Court has closed the right of cross-examination. It noted that two witnesses had appeared four times and the witnesses had been sent back unexamined and it appeared that there was an effort to tamper with evidence.

Counsel for the petitioners contends that one date may be given

A perusal of the record shows that Amandeep Kaur, Gurmail Singh and Lakhwinder Singh were examined by the prosecution. The defence did delay the matter on one pretext or the other and the Court had given the opportunity to cross-examine which was not availed and therefore, right of cross-examination was closed. It would be too harsh to close the right of cross-examination. The Court could have imposed heavy costs on the accused.

The petition is allowed. It is stated that the case is fixed for tomorrow. The trial Court would fix a date in July 2018 and summon the three witnesses. The petitioners would be given only one opportunity to cross-examine the witnesses.

The sum of Rs. 15,000/- which was deposited by the petitioners would be given to the three witnesses who are being recalled for their cross-examination. The Registry would send the amount to the Lower Court so that the amount can be paid to the witnesses on the date they appear for hearing.

**(ANITA CHAUDHRY)
JUDGE**

May 18, 2018
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No