

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl. Revision No. 120 of 2018
Date of Decision: July 19, 2019

Col. Kamaljit Singh Sangha

.....PETITIONER

VERSUS

Harjit Singh

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.P.Soi, Advocate
for the petitioner.

Mr. M.S.Atwal, Advocate
for the respondent.

SURINDER GUPTA, J.(Oral)

Heard.

This is revision against the order dated 03.10.2017 passed by the learned Judicial Magistrate Ist Class, Dasuya, whereby the application filed by the petitioner for recalling of the complainant for further cross examination was declined.

The petitioner sought recalling of the complainant Harjit Singh, who had been cross examined on 15.12.2016, on the ground that on that day he was in custody and could not give instructions to his counsel for the purpose of cross examination. In support of his contention, he has relied on the observation in the case of *Shri Sat Deo Jain Versus M/s Investment Point, 2002(1) R.C.R.(Criminal), 462.*

Learned counsel for the respondent has submitted that affidavit of the statement of complainant was supplied to the petitioner on his appearance in case. He had taken exemption from personal appearance seven times and thereafter did not appear on the date fixed. His bail bonds and surety bonds were cancelled and he was taken into custody and allowed bail on 15.12.2016. Learned counsel for the petitioner had been regularly appearing in the Court and plea of petitioner that he could not give proper instructions to him for cross-examination of complainant have no basis. Application seeking recall of complainant was also filed six months after the statement of complainant had been recorded.

I have perused the order and also the application filed by the petitioner seeking opportunity to cross examine the complainant. The ground put forth in the application is that the petitioner could not give proper instructions to his counsel for the purpose of cross examination of the complainant. However, it is totally silent on the point as to what vital questions could not be put to the complainant. The plea taken that the proper instructions could not be given to the counsel is a vague plea. This complaint is pending for the last four years and the application filed by the petitioner appears to be an attempt to further delay for disposal of the complaint. The citations referred by learned counsel for the petitioner is not applicable to the facts and circumstances of the case as in that case the accused come to know about some cheques issued by the complainant, which had not been encashed by him rather the same had been got encashed by the complainant or his authorized representative.

Once the cross examination of a witness has been completed,

permission to recall can not be allowed in a light manner without giving any specific reason for the same. In this case, petitioner could not make out any reason for recall of complainant for further cross-examination.

Keeping in view the above facts, I find no infirmity in the order declining permission as sought by the petitioner to cross examine the complainant.

This petition has no merits.

Dismissed.

July 19, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

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