

**S.No.125**

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

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**CRM-M-35016 of 2019 (O&M)**

**Date of Decision:28.08.2019**

**Davinder Singh               .....Petitioner**

**Vs.**

**Amandeep Singh           .....Respondent**

**CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present:-     Mr. Amandeep Singh, Advocate  
                  for the petitioner.

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**Rajbir Sehrawat, J.(Oral)**

The present petition has been filed by the petitioner under Section 482 Cr.P.C for quashing of the order dated 09.07.2018 passed by JMIC, Ludhiana in complaint case No.COMA-914-2015 dated 07.02.2015 vide which the learned Court has closed the opportunity of petitioner to cross-examine the respondent, with a further prayer for quashing of order dated 18.02.2019 vide which the trial Court has also dismissed the application filed under Section 311 Cr.P.C for recalling the witness.

Learned counsel for the petitioner contends that the petitioner, who is accused of the offence under Section 138 of NI Act; has been denied the opportunity to cross-examine the complainant. Therefore, the petitioner has been denied fair opportunity to defend himself. Still further, it is submitted that even in the order of the trial Court, it is recorded that counsel for the petitioner was not present, therefore, cross-examination could not be conducted. Learned counsel has further submitted that the petitioner is a layman. The cross-examination of the complainant or any other witness could have been conducted only by the counsel. However, since the counsel

could not come present in the Court on the said date, therefore, the petitioner cannot be put to prejudice because of the default of his counsel. Still further, it is submitted that the petitioner be granted, at least; one opportunity to cross-examine the complainant.

Having heard the learned counsel for the petitioner and perused the case file, this Court finds that the trial Court has given a reason for closing the opportunity of cross-examination for the petitioner. It has been recorded by the trial Court that the matter is pending for the purpose of cross-examination of the complainant only; since 08.05.2017. However, despite more than two years having passed, the petitioner has failed to cross-examine the said witness. In view of this situation, this Court does not find any illegality or impropriety in the order passed by the trial Court, warranting any interference, so far as merits of the case are concerned.

However, since the petitioner is an accused of an offence, for which he can be deprived of his liberty by sending him to imprisonment as well, therefore, lest the petitioner should have any impression, though misconceived, that he has been denied fair opportunity to defend himself, it would not be unjustified to grant one more opportunity to the petitioner to cross-examine the witness of the complainant, however, by putting him to some appropriate financial burden.

Accordingly, the present petition is disposed of with a direction to the trial Court that the petitioner be granted one effective opportunity to cross-examine the said witness, subject to payment of the cost. The cost to be paid by the petitioner is assessed at Rs.25,000/-. The cost shall be

deposited by the petitioner with “Poor Patients Fund, PGI, Chandigarh”.

However, it is clarified that the petitioner shall be granted opportunity to cross-examine the said witness only after the petitioner produces before the trial Court, the receipt of having deposited the cost, as ordered above.

August 28, 2019  
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( RAJBIR SEHRAWAT )  
JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |