

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

**CRM-M No. 43870 of 2019
Date of decision: 16.10.2019.**

Bharat Kumar

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Chandan Singh Rana, Advocate, for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 04.07.2019 (Annexure P4) whereby his application for recalling PW1 Krishan Kumar for his cross-examination was declined.

Learned counsel for the petitioner contends that the petitioner is being tried as a juvenile. PW1 Krishan Kumar was partly examined on 09.05.2019. His examination-in-chief was completed by the prosecution on 31.05.2019 whereon the counsel for the petitioner could not appear before the Court, as he was unwell. A request was made for cross-examination of PW1 Krishan Kumar which was declined and the cross-examination of the witness by the counsel for the petitioner was considered as 'nil'. Learned counsel also contends that it is necessary in the interest of free and fair trial that the petitioner be accorded just one opportunity to cross-examine PW1 Krishan Kumar.

Issue notice to respondent No. 1.

At the asking of the Court, Mr. Dhruv Dayal, DAG, Punjab, accepts notice on behalf of respondent No. 1 - State of Punjab.

Heard.

The petitioner is being tried as a juvenile in case FIR No. 358 dated 21.10.2017, under Sections 323, 380, 452, 148 and 149 of the Indian Penal Code, 1860, registered at Police Station City Jagraon. PW1 Krishan Kumar is the complainant. His examination-in-chief was completed by the prosecution on 31.05.2019 whereon the counsel for the petitioner could not appear before the Court, as he was unwell. A request was made for cross-examination of PW1 Krishan Kumar which was declined and the cross-examination of the witness by the counsel for the petitioner was considered as 'nil'. It would, thus, be appropriate in furtherance of the principles of fair trial as guaranteed by Article 21 of the Constitution of India that the petitioner be granted opportunity to cross-examine the prosecution witnesses. Denial of right to cross-examine the complainant would cause grave prejudice to the petitioner.

Consequently, the petition is allowed. The petitioner shall be granted one opportunity to cross-examine PW1 Krishan Kumar, subject to payment of ₹5,000/- to the State Legal Services Authority, Punjab.

(ANUPINDER SINGH GREWAL)
JUDGE

16.10.2019
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No