

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2971-2019

Date of decision: 07.11.2019

Ranjit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the order dated 01.10.2019 passed by the trial Court, vide which an application under Section 311 Cr.P.C. filed by the petitioner-accused for recalling PW1 Bagicha Singh and PW2 Jaswant Singh for the purpose of allowing him to cross-examine them, was dismissed.

Learned counsel for the petitioner submits that on many of the previous dates, PW1 Bagicha Singh and PW2 Jaswant Singh were not present and when they appeared on 12.06.2019, due to unavailability of counsel for the petitioner, the cross-examination could not be done and the trial Court treated the cross-examination as Nil. It is further submitted that since the petitioner is facing the primary charge under Section 304-A IPC and both these witnesses are the eye-witnesses, his right of defence will be seriously prejudiced, if an opportunity of cross-examining both these witnesses is not afforded to the petitioner.

A perusal of the impugned order passed by the trial Court shows that the application was moved after a lapse of two and half months, without giving any specific explanation regarding delay in moving the said application, however, the fact remains that the case is still at the stage of recording the prosecution evidence.

Notice of motion.

On asking of the Court, Mr. Jagmohan Ghumman, DAG, Punjab accepts notice on behalf of the respondent-State and submits that one effective opportunity may be granted to the petitioner subject to payment of heavy costs.

After hearing learned counsel for the parties, I find that depriving the petitioner of his right to cross-examine the eye-witnesses i.e. PW1 Bagicha Singh and PW2 Jaswant Singh would amount to injustice to him, as he will not be able to put up his defence in cross-examination.

Accordingly, this revision petition is allowed and the petitioner is granted one effective opportunity to cross-examine PW1 Bagicha Singh and PW2 Jaswant Singh.

The trial Court will fix a date and will make sure that the effective opportunity would mean a day when both these prosecution witnesses are present.

However, this will be subject to deposit of costs of Rs.10,000/- to be paid to the legal heirs of deceased Sukhdev Singh.

Petition stands disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

07.11.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No