

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

**Criminal Misc. No.M-53020 of 2019 (O&M)
Date of Decision: December 12, 2019**

Mohan Singh

.....PETITIONER(s).

VERSUS

State of Punjab

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Lakshay Bector, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Heard.

Notice of motion.

On asking of the Court, Mr. Avtar Singh Sandhu, Addl. A.G.
Punjab, who is present in the Court, accepts notice on behalf of respondent-
State.

The petitioner has challenged order dated 11.10.2019 passed by
learned trial Court, whereby application of the petitioner for recalling of
PW3 ASI Randhir Singh, Investigating Officer for his cross-examination,
was declined.

Learned counsel for the petitioner submits that PW3 ASI
Randhir Singh appeared on 15.02.2018 but his cross-examination was
recorded as 'Nil'. The petitioner was given the impression that due to non-
production of the case properties, his cross-examination has been deferred.

Thereafter, said PW never appeared and after conclusion of evidence when the file was inspected, this fact came to the notice that Court recorded the 'Nil' 'Opportunity given' under the statement of ASI Randhir Singh. He is a material witness and without his cross-examination, petitioner will suffer great prejudice and irreparable loss.

Learned State counsel submits that though the opportunity was allowed to the petitioner to cross-examine PW3 ASI Randhir Singh, however, if this Court may deem fit, one more opportunity be allowed for his cross-examination, subject to payment of costs.

ASI Randhir Singh is admittedly investigating officer of the case. His un rebutted statement will certainly cause great prejudice to the petitioner. Even if, it be taken that the lapse is on the part of counsel for the petitioner, who did not cross-examine PW3 Randhir Singh despite the opportunity being allowed, petitioner cannot be made to suffer on that count.

Keeping in view the interest of justice and to provide opportunity to the petitioner to cross-examine PW3 ASI Randhir Singh, this petition is allowed, subject to deposit of ₹3000/- as costs with District Legal Services Authority, Ludhiana within a period of one week. On deposit of costs, the Court will recall ASI Randhir Singh and will provide one more opportunity to the petitioner to cross-examine him.

December 12, 2019

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No