

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52587-2019 (O&M)
Date of decision: 10.12.2019

Surinder Pal Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. Arvind Kashyap, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the order dated 28.11.2019 passed by the Special Judge, Mohali in case No.PC/12/18 arising out of FIR No.13 dated 07.11.2017 under Sections 13(1)(e) read with Section 13 (2) of Prevention of Corruption Act, 1988, registered at Police Station State Vigilance Bureau F.S. 1, Punjab at Mohali, vide which cross-examination of two prosecution witnesses PW31 Bhupinder Singh and PW32 Satish Kumar Verma has been treated as Nil.

Learned senior counsel for the petitioner submits that the counsel, who is representing the petitioner before the trial Court, is suffering from serious eye ailment and relies upon his medical record in this regard. It is further submitted that on 27.11.2019, a request was made on behalf of the petitioner to adjourn the cross-examination of aforesaid two prosecution

witnesses, however, the trial Court adjourned the case for the next day i.e. 28.11.2019 and on that day, while recording examination-in-chief of both the witnesses, their cross-examination was treated as Nil, as the same could not be conducted in the absence of counsel for the petitioner.

Learned senior counsel for the petitioner further submits that in the meantime, two more witnesses i.e. PW33 Iqbal Singh DSP and PW34 SSP Varinder Singh Brar have also been examined and their cross-examination was also treated as Nil. It is argued that the right to cross-examine is an important right given to the accused to prove his innocence during the course of trial and by treating the same as Nil, right of defence of the petitioner shall stand vitiated. It is further submitted that though the petitioner could not arrange for another counsel, however, due to the fact that the counsel, who is already representing him, is well aware and well versed with the facts of the case, as he has cross-examined earlier witnesses, which will enable him to put up defence of the petitioner in an appropriate and valid manner and it will be in the interest of justice to grant an opportunity to the petitioner to cross-examine the aforesaid witnesses by the same counsel, who will be available in the first week of January, 2020 and in the intervening period, other witnesses, who are to be examined, be recorded.

After hearing learned senior counsel for the petitioner and considering the fact the trial Court is trying to expedite the trial and issuance of notice of motion in the present petition will delay the further proceedings before the trial Court, this petition is allowed and the impugned order dated 28.11.2019 is set aside. However, on account of causing delay in cross-examination of the witnesses, the petitioner shall deposit the costs of Rs.25,000/- with the District

Legal Services Authority, concerned.

Considering the request of learned senior counsel for the petitioner that the counsel, who is already representing the petitioner before the trial Court, will be available after 07.01.2020, the trial Court/Special Judge, Mohali is directed to fix two effective dates for the purpose of cross-examination of PW31 to PW34 or any other witness to be examined in between.

It is further made clear that if the cross-examination is not concluded on two effective dates, the trial Court, at its own discretion, may give another date for the same purpose.

Disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

10.12.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No