

201-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.44044 of 2018 (O&M)

Date of decision: 07.07.2021

Naresh Kumar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Bishnoi, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Sandeep Bansal, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 16.08.2018 passed by the Sessions Judge, Kurukshetra, vide which while recording the statement of 03 of the PWs namely Meena Kumari, Kalawanti and Ankit Rathore, right to cross-examine was not afforded to the petitioner – Naresh Kumar as a request was made that his counsel was not available.

A perusal of the order show that the request was declined considering the fact that it is being delayed and it was directed that the statement of the aforesaid 03 witnesses namely Meena Kumari, Kalawanti and Ankit Rathore, who were present on that day, will be recorded after sometime so that the petitioner/accused may call his Advocate telephonically.

The case file was again taken up on the same day i.e.

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16.08.2018 and the statement of the aforesaid 03 witnesses was recorded and the cross-examination was termed as “NIL”.

Counsel for the petitioner has submitted that in the absence of affording opportunity of cross-examination of the witnesses, he has been deprived of his valuable right to cross-examine the aforesaid witnesses and if he has not been granted permission to cross-examine the said witnesses, his right will be adversely effected.

Counsel for the State assisted by counsel for the complainant has submitted that all the PWs have already been examined. Counsel for the complainant has further submitted that one more FIR has been registered against the petitioner on 01.06.2021 under Sections 354-D, 506 and 509 IPC on the complaint given by his wife, however, this fact is not relevant for disposal of the petition.

After hearing the counsel for the parties and considering the fact that this petition is pending since 2018 and in order to give a proper and effective opportunity of putting up his defence, the petitioner is granted one effective opportunity to cross-examine all the aforesaid 03 witnesses namely Meena Kumari, Kalawanti and Ankit Rathore, on a day to be fixed by the trial Court. However, it is clarified that this will be subject to payment of costs of Rs.3,000/- to be paid by the petitioner towards the expenses borne by the 03 witnesses for attending the Court. It is further clarified that the effective opportunity would mean a day when these witnesses are present before the trial Court and if the petitioner still fail to cross-examine these 03 witnesses namely Meena Kumari, Kalawanti and Ankit Rathore, despite their availability before the trial Court on the date fixed, the trial Court may

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again treat the cross-examination as “NIL” and this petition will be deemed to be dismissed.

Accordingly, this petition is disposed of and the impugned order dated 16.08.2018 passed by the Sessions Judge, Kurukshetra is set-aside, subject to the observations made hereinbefore.

Considering the fact that the FIR pertains to the year 2017 and the entire evidence has already been concluded, the trial Court may call endeavor to conclude the trial preferably within a period of 06 months from today.

The petitioner is directed to appear before the trial Court on the next date of hearing i.e. 20.07.2021, the date already fixed.

(ARVIND SINGH SANGWAN)
JUDGE

07.07.2021
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No