

CRR-711-2021

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

**CRR-711-2021 (O & M)
Date of decision:05.10.2021**

Devender Singh and another

...Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Abhishek Sindhani, Advocate,
for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present revision is to the order dated 15.04.2021 passed by the learned Additional Sessions Judge, Jind, vide which cross-examination of PW 1 Amandeep (complainant) was treated as 'Nil' without granting sufficient opportunity of being heard to the petitioners.

Learned counsel for the petitioners submit that on 09.04.2021, PW 1 Amandeep appeared before the trial Court and on that day, his examination-in-chief and cross-examination on behalf of accused Ajay, Sudhir and Naveen was concluded, but cross-examination on behalf of accused Sumit and Devender could not be conducted as one Rajpal, father of accused-Sumit, had moved an application for an adjournment of the case on the ground that counsel for accused Sumit and Devender was unwell. The situation also remained the same on 12.04.2021. Even on 15.04.2021, no proper opportunity was given to the petitioners to cross-examine the complainant. He prays that one more opportunity be granted to the petitioners to cross-examine PW 1 Amandeep.

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Notice of motion.

On the asking of this Court, Mr. Ashok Singh Chaudhary, Addl. A. G. Haryana, accepts notice on behalf of the respondent-State.

At this stage, Mr. Lajpal Rai Sharma, Advocate, puts in an appearance on behalf of the complainant.

Learned State counsel, assisted by the learned counsel for the complainant, submits that there are regular threats to the complainant, who has already been provided police protection. The solitary stand taken by the petitioners that they could not cross-examine PW 1 Amandeep as their counsel was not well, is not believable as on 12.04.2021 and 15.04.2021, learned counsel for the petitioners before the trial Court was appearing in some other Courts at Jind.

I have heard the learned counsel for the parties.

By filing the present revision, the petitioners pray for the grant of one effective opportunity to cross-examine PW 1 Amandeep (complainant). Perusal of the record would reveal that on 09.04.2021 and 12.04.2021, PW 1 Amandeep was present before the trial Court, but the petitioners could not get him cross-examined as their counsel was not well. On 15.04.2021, the petitioners also requested for an adjournment on the ground that their counsel was not available. While passing the impugned order, the trial Court has noticed that sufficient opportunity had been granted to the petitioners and that complainant-Amandeep pleaded that he had been pressurized/threatened by the accused persons, including the petitioners.

Rule of procedure for affording an opportunity to an accused

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to cross-examine the witness has to be held to be directory and not mandatory in nature. The rules of procedure are handmaiden to the administration of justice and are meant to meet the ends of justice and not to thwart or obstruct the same. While taking into consideration that PW 1 Amandeep is under the police protection, this Court is of the considered opinion that ends of justice would be met if one effective opportunity is given to the petitioners-accused to cross-examine PW 1 Amandeep, subject to costs of Rs.10,000/-, to be paid by the petitioners to him. Ordered accordingly.

For the reasons stated above, the impugned order dated 15.04.2021 is set aside. The revision petition is allowed in the aforementioned terms.

05.10.2021

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No