

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-41550-2021

Date of Decision: 03.11.2021

(Proceedings through V.C.)

Darshan Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Vishal Munjal, Advocate for the petitioner.

Mr. C.L. Panwar, Sr. DAG, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing of order dated 05.03.2021 (Annexure P-3) whereby cross-examination of PW-4 BalKar Chand was treated as 'Nil' and order dated 17.03.2021 (Annexure P-5) whereby the application of the petitioner seeking permission to cross-examine PW-4 Balkar Chand, was dismissed, in case FIR No. 103 dated 21.08.2015 (Annexure P-1) registered under Sections 452, 323, 341, 148 and 149 IPC at Police Station Division No. 1, Pathankot (however, challan was presented only under Sections 325, 323, 341, 148 and 149 IPC).

In a nutshell, petitioner is facing trial in the aforesaid FIR, which was got registered on the statement of PW-4 Balkar Chand S/o

Mansa Ram. Examination-in-chief of PW-4 Balkar Chand was recorded on 09.10.2017 and after giving sufficient opportunities to petitioner, his cross-examination was treated as 'Nil' on 19.08.2019. The application moved by learned counsel for the petitioner for summoning of the said witness for cross-examination was allowed by the trial Court vide order dated 27.02.2021, subject to payment of costs of ₹2000/-. Thereafter, the witness was present in Court on 11.01.2021, 18.02.2021, 23.02.2021 and 05.03.2021, for cross-examination but on all the said dates, except for 05.03.2021, the said witness was bound down on request of learned proxy counsel for the petitioner-accused. Even the aforesaid costs of ₹2000/- was not paid. The trial Court vide order dated 05.03.2021 (Annexure P-3) by treating the cross-examination of PW-4 Balkar Chand as 'Nil', adjourn the case for defence evidence, if any. The application filed by the petitioner seeking permission to cross-examine the aforesaid witness was also dismissed by the trial Court vide order dated 17.03.2021 (Annexure P-5).

Learned counsel for the petitioner, without advancing arguments on merits, prays for grant of one last opportunity to the petitioner to cross-examine PW-4 Balkar Chand, whose cross-examination has been treated as 'Nil' by the trial Court. He further submits that in case, the aforesaid witness is not permitted to be cross-examined, a grave injustice and prejudice would be caused to the petitioner. Learned counsel submits that next date before the trial Court is 08.11.2021.

On the other hand, learned State counsel vehemently

opposed the prayer made in the instant petition submitting that the petitioner is adopting delaying tactics which may result in delay in conclusion of trial.

Having considered the submissions of learned counsel for the parties, keeping in view the peculiar facts and circumstances of the case, without commenting on the merits of case and in view of principles of natural justice, equity, good conscience and fair play, petitioner is granted one last opportunity to cross-examine PW-4 Balkar Chand, at his own responsibility on 08.11.2021, the date already fixed before the trial Court, subject to payment of ₹10,000/- as costs to be deposited with the District Legal Services Authority, Pathankot.

Disposed of, accordingly.

November 03, 2021
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No