

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118

CRM-M-49633-2021

Date of Decision : 26.11.2021

Jagdish Kumar

...Petitioner

Versus

M/s Mukhtiar Singh Ramesh Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashok Kumar Khunger, Advocate for the petitioner.

Harsimran Singh Sethi, J. (Oral

The present petition has been filed for quashing of order dated 17.11.2021 passed by the Judicial Magistrate First Class, Abohar, by which, without giving an opportunity to the petitioner-accused to cross-examine the complainant, the case has been fixed for recording the statement of the petitioner-accused under Section 313 Cr.P.C.

Learned counsel for the petitioner submits that initially the case was being adjourned at the request of the parties as there was likelihood of compromise between the parties but, on 17.11.2021, the right of the petitioner to cross-examine the complainant, who was stated to be present, has been taken away on the ground that delaying tactics are being adopted by the petitioner-accused to delay the proceedings.

Learned counsel for the petitioner further submits that the petitioner be given one opportunity to cross-examine the complainant on the date already fixed before the trial Court i.e. 01.12.2021 and, thereafter, he will get his testimony recorded under Section 313 Cr.P.C.

I have learned counsel for the petitioner and have gone through the record with his able assistance.

All the efforts should be made to give full opportunity to the accused to defend himself as the outcome of the proceedings can cause prejudice to an accused. In the present case, though, there is no doubt that the trial Court had given sufficient time to the parties to amicably settle their dispute and it is not a case that the petitioner was not given an opportunity to cross-examine the complainant on the date fixed but, it was the accused i.e. petitioner, who did not cross-examine the complainant by remaining absent on the said date. Still, in order to achieve the purpose of justice, one final opportunity is granted to the petitioner i.e. accused to cross-examine the complainant on the date fixed before the trial Court i.e. 01.12.2021 and, thereafter, the petitioner will also tender his statement under Section 313 Cr.P.C on the said date so that no further delay is caused.

Present petition stands allowed in above terms.

November 26, 2021

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No