

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

**CRM-M-27993 of 2022
Date of Decision:- 04.07.2022**

Jagsir Singh

....Petitioner

Vs.

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. I.S. Dhaliwal. Advocate for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

KARAMJIT SINGH, J.

Petitioner has filed the present petition for quashing of orders dated 08.04.2022 (Annexure P-3 and P-4) passed in case having FIR No.19 dated 09.03.2019 under Sections 234, 323, 34 IPC registered at Police Station Lakhewali, District Sri Muktsar Sahib, by the Court of Sub Divisional Judicial Magistrate, Malout, vide which the opportunity to cross examine PW1 Amritpal Singh and PW2 Sukhvir Singh on behalf of the petitioner was treated as 'Nil' by the Trial Court.

The counsel for the petitioner contends that no opportunity was given to the petitioner to cross examine PW1 and PW2 and the cross examination of both the said PWs was treated as

‘Nil’ on behalf of the petitioner by the trial Court. The counsel further contends that the same is evident from the perusal of Annexures P-3 and P-4, both dated 8.4.2022. The counsel further contends that there was no occasion for the trial court to do so. The counsel further contends that as the cross examination of the PW1 and PW2 on behalf of the petitioner has been considered as ‘nil’, it has resulted in denial of right to fair trial and thus, the impugned orders deserve to be set aside.

This Court is of the view that the present petition can be disposed of without issuing notice to the opposite party.

The brief facts of the case are that the petitioner Jagsir Singh along with other accused is facing trial in criminal case having FIR No.19 dated 9.3.2019 under Sections 234, 323, 34 IPC registered at Police Station Lakhewali, District Sri Muktsar Sahib at the instance of Amritpal Singh.

During the trial PW1 and PW2 were examined on behalf of the prosecution but as is evident from Annexures P-3 and P-4, it appears that their cross examination on behalf of the petitioner was treated as ‘nil’, as the accused person misbehaved with the Court. From the perusal of Annexure P-2, it transpires that co-accused Lakhvir Singh misbehaved with the Court regarding which he was given warning to behave properly in the Court in future, failing which, appropriate legal action would be taken against him. There is nothing to show that the present petitioner ever misbehaved in the

trial court. The petitioner cannot be penalized for the action of co-accused. So the trial Court was having no reason or occasion to declare that the cross-examination of PW1 and PW2 on behalf of the petitioner is to be treated as 'nil'.

In view of the above, and considering the fact that severe prejudice was likely to result as a consequence of non cross-examination of PW1 and PW2 by the petitioner, the present petition deserves to be allowed. Accordingly, the same is hereby allowed and the impugned orders are set aside and the trial Court is directed to grant one effective opportunity to the petitioner to cross-examine PW1 Amritpal Singh and PW2 Sukhvir Singh who are to be summoned by the trial Court for that purpose, subject to payment of costs of Rs.5000/- which is to be deposited by the petitioner with the District Legal Services Authority, Sri Mukatsar Sahib, as a condition precedent. The petitioner is directed to appear before the trial Court on the next date already fixed there.

Disposed of accordingly, so also the pending miscellaneous application(s), if any.

04.07.2022
P. Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No