

CRM-M-24531-2019

Date of Decision: 19th July, 2022

Abhishek

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

AVNEESH JHINGAN, J (Oral):

This petition is filed seeking quashing of order dated 24.4.2019 passed in case No. JJB/83/2018 whereby the application filed under Section 311 Cr.P.C was dismissed.

Brief facts are that in case of FIR No. 91 dated 25.7.2016 under Sections 302/307/447/506/511/148/149/120-B/34 IPC read with Section 25/27 of Arms Act, 1959 petitioner child in conflict with law (for short 'CCL') is facing trial.

During the trial, prosecution witnesses Dr. Harjot Kaur, Dr. Jasneev Sandhu, Sharda Bansal, Shakti Sharma and Pankaj Bansal were examined but their cross-examinations were deferred to after lunch on request made by learned counsel for 'CCL'. After the lunch break, counsel for 'CCL' did not appear, after waiting for sufficient time, the cross-examination of the prosecution witnesses was treated as nil.

Learned counsel for the petitioner submits that by closing the cross-examination of the prosecution witnesses, the prejudice has been

caused to 'CCL' as his defence would be affected. He further submits that the cross-examination could not be conducted due to non-presence of the counsel. The contention is that the petitioner should not be made suffer due to the conduct of the counsel.

Learned State Counsel submits that the cross-examination was intentionally delayed and it was only a delaying tactic.

It is settled law that fair opportunity should be granted to the accused to defend himself. Cross-examination is time tested method for testing the veracity of the deposition of the prosecution witness. From the impugned order, it is forthcoming that request was made on behalf of counsel for 'CCL' for deferring the cross-examination and thereafter, he did not appear. Considering that the order passed causes prejudice to the petitioner, the order is set aside, the petitioner is granted an opportunity to cross-examine the prosecution witnesses mentioned above. However, considering that the impugned order is of 2019, the Trial Court would ensure expeditious conclusion of the cross-examination of the prosecution witnesses by accommodating the dates and the petitioner will not be granted unwarranted adjournments.

Petition is allowed.

Since the main case has been decided, the pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

19th July, 2022
anuradha

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |