

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-903-2023

Date of Decision:24.02.2023

BALWINDER SINGH@LUCKY SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Vikas Bali, Advocate for the petitioner.

Mr. Amish Sharma, AAG, Punjab
assisted by ASI Gurpreet Singh.

Mr. Naresh Prabhakar, Advocate for the complainant.

JAGMOHAN BANSAL, J. (Oral)

On 09.01.2023 following order was passed:

“The petitioner, through the instant petition, is seeking setting aside of order dated 22.11.2022 whereby Additional Sessions Judge, Ludhiana in trial arising out of FIR No. 202 dated 22.9.2020 under Sections 363, 366-A, 376 of IPC and Section 6 of POCSO Act, 2012, registered at Police Station Division No. 2, Ludhiana has rejected prayer of the petitioner seeking recalling of examination of PW-6 as well PW-1(prosecutrix).

Learned counsel for the petitioner, at the outset, states that he does not press his application qua re-examination of PW-6 and seeks permission to re-examine PW-1 because during the course of examination of father of the prosecutrix, it has come on record that he is having four children. Two daughters are of the same name i.e. Khushi. The prosecution has intentionally placed on record birth certificate of minor daughter whereas case was registered qua major daughter.”

Mr. Naresh Prabhakar, Advocate has put in appearance on behalf of the complainant and filed his power of attorney. The same is taken

on record.

Short reply by way of affidavit dated 24.02.2023 of Ramandeep Singh Bhullar, Assistant Commissioner of Police (Central), Ludhiana filed on behalf of respondent No.1-State is taken on record.

Learned State counsel as well as learned counsel for the complainant submitted that prosecution evidence stands closed and matter is at the stage of defence evidence, thus, it would be travesty of justice, if petitioner is permitted to further cross examine prosecutrix. They further submit that it is a case of an attempt to delay the trial.

On being confronted with these facts, learned counsel for the petitioner submits that he would complete cross examination on the same day and it is most relevant as well as important to cross examine prosecutrix because petitioner has been implicated under POCSO Act, whereas prosecutrix is major, however, prosecution has placed on record documents of another girl having the same name.

Without going into controversy of the merits, however, keeping in mind, principles of natural justice and fair play, the impugned order is set aside and Trial Court is directed to permit the petitioner to further cross examine PW-I on the next date fixed before the Trial Court. It is made clear that petitioner would complete cross-examination on the same day and he will not seek adjournment on any ground.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

24.02.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>