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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19808-2023

Date of Decision: 21.04.2023

Balinder

... Petitioner

Vs.

State of Haryana & Another

... Respondents

CORAM: HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Ms. Ambika Sood, Additional A.G. Haryana.

AMARJOT BHATTI, J. (ORAL)

Balinder has filed the instant petition under Section 482 Cr.P.C. for issuing direction to learned Additional Chief Judicial Magistrate, Karnal/ trial Court to afford one opportunity to cross-examine Inspector Charan Singh – PW1 and Aarti – PW2 in FIR No. 202 dated 19.11.2019 under Section 341, 354-A, 506, 509 of IPC, registered at Police Station Sector 32-33, Karnal, District Karnal.

Notice of motion.

On the asking of this Court, Ms. Ambika Sood, Additional A.G. Haryana accepts notice on behalf of the State.

Learned counsel for the petitioner argued that in the aforesaid FIR, the charge was framed on 02.12.2021 and it was fixed for prosecution evidence for the first time for 07.07.2022. Copy of order is Annexure P-2. On the next date i.e. 07.07.2022, no prosecution evidence was present and it was adjourned for 11.01.2023. Copy of order is Annexure P-3. On

as PW-1 and Aarti as PW-2 and on the same day, the statement of these witnesses was closed by writing "opportunity given nil". In fact, no proper opportunity was given to the counsel for petitioner to cross-examine these witnesses. The petitioner will suffer great prejudice in case the aforesaid material witnesses are not cross-examined by his counsel. It is prayed that one effective opportunity may be provided to cross-examine these witnesses.

Learned counsel representing the State pointed out that on the date fixed i.e. 11.01.2023, the counsel for accused did not turn up to cross-examine the witnesses and there was no alternative left with the trial Court but to close the statements of witnesses by writing "opportunity given nil". The petition filed by the petitioner is without any basis.

I have considered the arguments and have gone through the record carefully. The perusal of file shows that the trial in FIR No. 202 dated 19.11.2019 under Section 341, 354-A, 506, 509 of IPC, registered at Police Station Sector 32-33, Karnal, District Karnal started after the framing of charge on 02.12.2021. On the first date i.e. 07.07.2022, no prosecution evidence was present and on the next date statement of Inspector Charan Singh as PW-1 and Aarti as PW-2 were recorded whereas, two witnesses ASI Mohan Lal and SI/SHO Satpal were given up being unnecessary. It is matter of record that the statements of these witnesses was closed by writing cross-examination "nil". In the case in hand, the trial had started in December, 2021 and the aforesaid witnesses had appeared for the first time when the impugned order dated 11.01.2023, Annexure P-4 was passed. The possibility of counsel for accused busy in another Court cannot be ruled out. It is always in the interest of justice that the case is decided on merits by giving opportunity to both the sides to

present their case. Obviously, Inspector Charan Singh – PW1 and Aarti – PW2 are material witnesses and in case the petitioner is not given opportunity to cross-examine them, then he is going to suffer serious prejudice. Therefore, taking a lenient view, the petition filed by the petitioner – Balinder is allowed, as prayed for and the learned Additional Chief Judicial Magistrate, Karnal/ trial Court is directed to give one effective opportunity to the counsel for accused – Balinder to cross-examine Inspector Charan Singh – PW1 and Aarti – PW2.

The petition is accordingly, disposed of.

21.04.2023
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No