

CRM-M-33844-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(133)

CRM-M-33844-2023

DATE OF DECISION:- 17.07.2023

RAJWINDER KAUR @ ROZI

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jaspreet Singh Brar, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab
for the State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, accused-petitioner has approached this Court for quashing order dated 20.08.2021, Annexure P-2, passed by learned Chief Judicial Magistrate, whereby cross-examination of PW-2 (Raj Kaur) and PW-3 (Mahinder Singh) was declared as deemed to have been concluded; order dated 06.10.2022, Annexure P-4, whereby application for recalling these witnesses has been dismissed and order dated 28.03.2023, Annexure P-6, whereby revision, preferred by the petitioner, has been declined by the learned Additional Sessions Judge, Fairdkot.

2. In a nutshell, on a complaint filed by Pavittar Kaur, FIR No.86 dated 23.04.2018 for offence under Section 420, IPC, Annexure P-1, has been registered at Police Station City, Faridkot against number of accused, including the petitioner, on the allegation that the complainant has been fleeced of money as well as ornaments and was given blank cheques, which were stolen by the accused. After the completion of investigation, challan was presented and charge under Section 420, IPC was framed against the petitioner on 06.09.2019. PW-2 and PW-3 were examined in-chief on 23.04.2021 and her remaining evidence was deferred for 21.05.2021 and adjourned further on the request of counsel for the petitioner as he had to go for inoculation. On the next date, petitioner sought exemption from personal appearance and requested for adjournment for cross-examination of both the named witnesses, which has been declined by the Trial Court vide impugned order, Annexure P-2. Application, Annexure P-3, filed for recalling both the witnesses has been declined by Annexure P-4 and a revision petition preferred against the said order came to be dismissed by Annexure P-6.

3. Heard counsel for the parties.

4. A perusal of the interim orders appended by the petitioner as Annexure P-7 show that the proceedings have been adjourned on various occasions due to the outbreak of the pandemic. When the proceedings resumed, petitioner, who was indisposed, sought an adjournment, but the same has been declined by the Trial Court. Failure to cross-examine the witnesses was not on account of any lapse, but due to the unprecedented situation due to the spread of the contagion. This Court is of the opinion that the petitioner has made out a case for grant of an opportunity to

cross-examination of both the above named witnesses, though on deposit of cost.

5. Consequently, instant petition is allowed and the impugned orders are set aside. Petitioner is granted one effective opportunity to cross-examine Raj Kaur, PW-2 and Mahinder Singh, PW-3, for which purpose she will appear before the Trial Court within a fortnight. The Trial Court shall re-summon both the named witnesses and grant one effective opportunity to the petitioner to cross-examine them. This will be subject to deposit of cost of Rs.10,000/- with the Poor Patient Welfare Fund, P.G.I.M.E.R., Sector-12, Chandigarh and the receipt of the deposit shall be furnished by the petitioner before the Trial Court prior to the cross-examination of the said witnesses.

6. Petition is disposed of.

17.07.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No