

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

116

2023:PHHC:102171

CRM-M-38804-2023

Date of decision: August 8th, 2023

Yudhishter Gandhi

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jagjit Singh Gill, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 02.08.2023 (Annexure P-3) passed by learned Sessions Judge, Sirsa, whereby the revision petition of the petitioner filed for cross-examination of respondent No.2-complainant was dismissed.

2. Learned counsel submits that on 16.05.2023, due to some personal difficulty, counsel for the petitioner could not cross-examine the complainant and the matter was listed for defence evidence. The revision petition moved by the petitioner to set aside the order dated 16.05.2023 was dismissed by the learned Sessions Judge on the ground that accused (petitioner herein) had availed as many as 17 opportunities for conducting cross-examination of the witnesses of complainant but he had not done so on one pretext or the other.

3. I have heard learned counsel and perused the relevant material on record.

4. The petitioner was granted several opportunities to cross examine the complainant, however, he failed to do so.

5. Be that as it may, if the petitioner is not granted one more opportunity to cross-examine the complainant, he would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to cross-examine the complainant.

6. Hence, without issuing notice to the respondents, to avoid any further delay as well as expenses which the respondents shall have to incur to defend these proceedings, the impugned order dated 02.08.2023 is set aside. The instant petition is allowed in the following terms:-

1. The petitioner is granted only one effective opportunity to cross-examine the complainant.
2. In the event of default by the petitioner, the case shall not be adjourned any further for cross-examining the complainant and the trial Court shall proceed with the trial.
3. This, however, shall be subject to payment of costs in the sum of ₹15,000/- to be paid to respondent No.2 which shall be a condition precedent.

August 8th, 2023

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No