

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

108

CRR-2235-2023 (O&M)
Date of decision: 04.10.2023

Manpreet Singh @ Manna and others

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Nirmaljeet Singh Sidhu, Advocate
for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are impugning orders dated 04.07.2023 and 19.04.2022 passed by learned Additional Sessions Judge, Bathinda whereby their prayer for cross-examination of PW-1 Gulshandeep Kaur and PW-2 Lakhvir Singh was declined and opportunity to cross-examine them was treated as Nil.

2. Learned counsel for the petitioners contends that the Trial Court has erroneously rejected the application filed by them under Section 311 of the Cr.P.C. whereby they had sought summoning of PW-1 Gulshandeep Kaur and PW-2 Lakhvir Singh only for the purpose of their cross examination. He submits that examination-in-chief of both these witnesses was done on 19.04.2022, however, their counsel representing them before the Trial Court could not cross-examine them as he suddenly took ill. Learned counsel submits that even though a request was made to the Trial Court for a short adjournment, but the same was not acceded to. It has been further submitted that without giving an effective opportunity to the petitioners, the Trial Court had erred in treating the cross-examination of these witnesses as Nil.

Learned counsel further submits that compassionate view be taken as he was willing to abide by any condition that may be imposed in the said regard, including any costs.

3. Notice of motion.

4. On asking of the Court, Mr. Mohit Kapoor, Addl. A.G., Punjab accepts notice on behalf of the respondent-State.

5. Learned State counsel while opposing the prayer made by learned counsel for the petitioners, submits that the Court below after taking into consideration the safety of the witnesses had directed them to be cross examined on the same date. He has submitted that it is a matter of record that the counsel for the petitioners was present in the court premises during the day, however, he chose not to cross-examine the witnesses when the case was called. It has also been submitted that the counsel for the co-accused had already cross-examined both these witnesses and hence, no prejudice could be said to have been caused to the petitioners.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. Be that as it may, if the petitioners are not granted one more opportunity to cross-examine PW-1 Gulshandeep Kaur and PW-2 Lakhvir Singh, they could 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 effective opportunity to the petitioners to cross-examine both the witnesses.

8. Accordingly, the instant petition is allowed in the

following terms:-

(i) The petitioners are granted only one effective opportunity to cross-examine PW-1 Gulshandeep Kaur and PW-2 Lakhvir Singh.

(ii) In the event of both the witnesses not being cross-examined on the date fixed by the Trial Court, the case shall not be adjourned any further for their cross-examination, and the Trial Court shall thereafter, proceed with the trial.

(iii) This, however, shall be subject to payment of costs in the sum of ₹50,000/- out of which ₹25,000/- shall be given to the complainant and the remaining ₹25,000/- shall be deposited with the District Legal Services Authority, Bathinda, which shall be a condition precedent.

04.10.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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