



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

120

CRR-1774-2025 (O&M)
Date of decision: 24.07.2025

Rajinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jatinder Singh Mundi, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present revision petition has been filed against the order dated 03.05.2025, passed by the learned trial Court in case arising out of FIR No. 67 dated 16.03.2021, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kharar, District SAS Nagar, whereby remaining cross-examination of PW-1 and PW-2 has been ordered to be treated as nil.

2. Learned counsel for the petitioner has submitted that he is facing trial in the aforesaid FIR and has been regularly appearing before the learned trial Court. PW-1 Constable Gurwinder Singh was partly cross examined by the counsel of the petitioner on 24.07.2024 and his further cross examination was deferred to 04.10.2024 as the Court time was over. On 04.10.2024, PW-1 did not turn up and his presence was ordered to be secured throughailable warrants for 16.12.2024. Although PW-1 came present on 16.12.2024 but the counsel for the petitioner was busy before some other Court and when he reached the Court, he came to know that the case had been adjourned to 13.02.2025. On 13.02.2025, no PW came present and the case was adjourned



to 03.05.2025, on which date, the counsel for the petitioner could not appear due to noting down a wrong date. Consequently, the remaining cross examination of PW-1 and PW-2 was ordered to be treated as nil by the learned trial Court. It is argued that the absence of the counsel representing the petitioner before the Court concerned on the said date was neither intentional nor deliberate. Learned counsel for the petitioner has further argued that it is settled law that the right to cross examination is an important right given to an accused and the trial Court should not have been hyper-technical in passing the impugned order. A great prejudice shall be caused to the rights of defence of the petitioner, if the aforesaid PWs are not allowed to be cross examined. Hence, it is prayed that the petitioner may be granted one opportunity to further cross examined the aforesaid witnesses.

3. I have heard learned counsel for the petitioners and have also perused the material placed on record.

4. A perusal of the record as well as the zimni orders passed by the learned trial Court reveals that it was the prosecution witnesses as well as the counsel for the petitioner, who failed to appear on some dates before the Court. On previous occasion, even bailable warrants were issued against PW-1. So far as the petitioner is concerned, his counsel has taken a plea that he had noted down a wrong date and that is why he could not appear before the Court. The above conduct of the counsel for the petitioner is certainly indicative that he has been negligent in pursuing the case. However, his negligence is not of the kind which would leave the petitioner with such consequence that cross examination of two significant prosecution witnesses be treated as nil as the same will definitely prejudice the right of defence of the petitioner, which is indeed an important right given to an accused. The



primary duty of the Court is to reach as close to the truth as possible by obtaining proper proof of such facts which would lead to a just and correct decision of the case, which cannot be done without giving an opportunity to the petitioner to further cross examined the said witnesses. The Courts are under legal obligation to make every possible effort, in the given fact situation of each case, to reach the truth so as to enable itself to arrive at a just decision for achieving the laudable object of doing substantial justice between the parties. Hence, this Court is of the considered opinion that the petitioner deserves some leniency. Accordingly, the petition is disposed of. The learned trial is directed to accord one effective opportunity to the petitioner to further cross examine the aforesaid prosecution witnesses.

24.07.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No